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Thursday
April 14, 1983

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Coal Mining
Surface Mining Reclamation and Enforcement Office

Electric Power
Federal Energy Regulatory Commission

Flood Insurance
Federal Emergency Management Agency

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Federal Communications Commission

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 574]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period April 15–April 21, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: April 15, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:
Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on April 11, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is lower than last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreement and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.874 is added as follows:

§ 907.874 Navel orange regulation 574.

The quantities of navel oranges grown in California and Arizona which may be handled during the period April 15, 1983 through April 21, 1983, are established as follows:

(1) District 1: 1,600,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: April 12, 1983.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–10188 Filed 4–13–83; 11:42 am]
BILLING CODE 3410-02-M

7 CFR Parts 925 and 944

[California Desert Grape Reg. 3; Table Grape Import Reg. 1]

Grapes Grown in a Designated Area of Southeastern California, and Table Grapes Imported into the United States

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes minimum requirements for table grapes grown in southeastern California and for table grapes imported into the United States, except for the Emperor, Calmeria, Almeria, and Ribier varieties which are not grown in the production area in southeastern California. Such grapes are required to meet the minimum grade and size requirements for U.S. No. 1 Table grade, as defined in the United States Standards for Grades of Table Grapes (European or Vinifera Type), and minimum maturity standards as defined in the Administrative Code of California. For table grapes grown in southeastern California additional requirements are effective, including container and pack, container marking, and packing holidays. These actions are needed to assure the shipment of ample supplies of table grapes of acceptable quality and to promote orderly marketing in the interests of producers and consumers.

DATES: Effective May 1, 1983, through August 15, 1983. The Director of the **Federal Register** approves the incorporation by reference of certain publications in 7 CFR 925:302 and 944.501 effective May 1, 1983 through August 15, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California desert grape crop and of imported table grapes for the benefit of producers and consumers, and will not substantially affect costs for the persons directly regulated.

California Desert Grape Regulation 3 is issued under the marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of table grapes grown in a designated area of southeastern California. This marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Table Grape Import Regulation 1 is issued under Section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Section 8e requires that when specified commodities, including table grapes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

It is hereby found that this final rule will tend to effectuate the declared policy of the Act.

The California Desert Grape Administrative Committee has recommended grade, size, maturity, container, pack, and other requirements for table grapes grown in southeastern California, to be effective for the period May 1-August 15, 1983. A proposed rule relative to regulation of such grapes was published February 23, 1983, in the **Federal Register** (48 FR 7581), providing for comments through March 25, 1983. A proposed rule relative to regulation of imported table grapes was published March 8, 1983, in the **Federal Register** (48 FR 9657), providing for comments through March 23, 1983.

Exceptions were filed by the Imported Winter Grape Association, San Francisco, California, regarding both proposals. The Association represents importers and distributors of grapes grown in Chile. The exception would change the effective date of the regulations from May 1, 1983, to June 1, 1983. The Association maintains that sales of California desert grapes on May 1 are generally not substantial and the grape import regulation effective on that same date would result in unnecessary regulation of end-of-season shipments of Chilean grapes.

An exception was also filed by the Chilean Ambassador requesting that the effective date of the import regulation be changed to May 15, 1983. The exception indicated that the May 1 effective date would seriously affect imports of Chilean grapes.

The California Desert Grape Administrative Committee has projected that shipments of grapes regulated under the Federal marketing order will begin on or about May 1, 1983. Moreover, even if substantial shipments do not develop by May 1, there would exist a good possibility for some shippers to harvest immature grapes and ship them prior to May 15 in order to take advantage of the early season high prices. This could negate the effectiveness of the entire seasonal regulation since the desert grape season is relatively short. The intent of the domestic regulation is to prevent the shipment of immature grapes that could destroy product quality image. Since Chilean grapes that would arrive in May are end-of-season grapes, there should not be any problem meeting minimum requirements. Accordingly, it is found that the effective date of the domestic and import regulation should be set at May 1 and the exceptions are denied.

The exception filed by the Imported Winter Grape Association requests that the final import grape regulation be variety specific and contain exemptions for Emperor, Calmeria, Almeria, and Ribier. The proposed and final import grape regulations specifically exempt Emperor, Calmeria, Almeria and Ribier varieties, as these varieties are not grown in the production area. It is impracticable to prescribe specific varieties of grapes in the regulations as minor varieties may not be identified and would be unregulated.

California Desert Grape Regulation 3 requires shipments of table grapes grown in southeastern California to meet the minimum grade and size requirements of U.S. No. 1 Table Grade as specified in the United States Standards for Grades of Table Grapes (European or Vinifera Type.) In addition, such grapes will also be required to meet the minimum maturity requirements for table grapes as specified in the California Administrative Code. Table Grape Import Regulation 1 requires table grapes imported into the United States to meet these same minimum grade, size, and maturity requirements. Table grapes of the Emperor, Calmeria, Almeria, and Ribier varieties are specifically exempted from both the domestic and import regulations because they are not grown in the production area covered by Marketing Order 925.

California Desert Grape Regulation 3 also establishes certain container and pack requirements as well as container marking requirements in order to standardize packing practices. Container and packing requirements are specified in the regulation and in the California Administrative Code. Experimental containers approved by the committee may also be used. A minimum of 22 pounds of grapes must be packed in each of the authorized containers, except for certain packs and experimental containers. Containers must bear the minimum net weight of the grapes in the container, the name of the grape variety, the name of the shipper, and the lot stamp inspection number on the outside of the container. Such requirements are designed to facilitate identification of shipments and promote orderly marketing of these grapes. Packing holidays on Saturdays and Sundays and certain holidays during the regulation period are also established and are designed to prevent an accumulation of excessive supplies of table grapes at distribution points during periods of reduced demand or market inactivity. The regulation exempts "organically-grown" table grapes from the minimum individual berry size requirement, while table grapes for processing are exempt from regulation, if certain conditions and safeguards are met.

It is found that it is impracticable and contrary to the public interest to postpone the effective date of these regulations until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) The regulatory provisions of these regulations must become effective by May 1, 1983, in order to effectuate the declared policy of the Act; (2) the regulatory requirements in the final rule are the same as those in the proposed rules published in the **Federal Register**, including the effective period; and (3) the import requirements for table grapes are mandatory under section 8e of the Act, and the required 3 days notice is provided.

List of Subjects

7 CFR Part 925

Marketing agreement and orders, Grapes, California, Incorporation by reference.

7 CFR Part 944

Fruits, Import regulations, Grapes, Incorporation by reference.

Therefore, new §§ 925.302 and 944.501 are added, and § 944.400 is amended by revising the title and paragraph (a) thereof, to read as follows: (Sections 925.302 and 944.501 expire August 15, 1983, and will not be published in the annual Code of Federal Regulations).

PART 925—[AMENDED]

§ 925.302 California Desert Grape Regulation 3.

During the period May 1, 1983, through August 15, 1983, no person shall handle any variety of grapes, except Emperor, Calmeria, Almeria, and Ribier varieties unless such grapes meet the following requirements: *Provided*, That no person shall pack any such grapes on any Saturday or Sunday, or on May 30 or July 4, 1983, unless approved in accordance with paragraph (e)—

(a) *Grade, size, and maturity.* Such grapes shall meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table Grade, as set forth in the U.S. Standards for Grades of Table Grapes (European or vinifera type, 7 CFR 51.880 through 51.912), and minimum maturity standards in accordance with applicable sampling and testing procedures specified in sections 1436.3 through 1436.17 of the Administrative Code of California (Title 3).

(b) *Container and Pack.* (1) Such grapes shall be packed in one of the following containers, which are new and clean, and which otherwise meet the requirements of sections 1359 (a), (b), (d), 1380.19, 1436.35, 1436.37, 1436.38 and 1436.40 of the Administrative Code of California (Title 3):

(i) Sawdust pack with inside dimensions of 7¾×14 15/16×18¾ inches, specified as container 28;

(ii) Polystyrene lug with inside dimensions of 6¾×12½×15¾ inches, specified as container 38J;

(iii) Standard grape lug with dimensions in inches of 4½ to 8½ (inside) × 13½ to 14½ (outside) × 16¾ to 17½ (outside); specified as container 38K;

(iv) Polystyrene lug with inside dimensions of 6¾ or 8¾×11½×18¾ inches, specified as container 38Q;

(v) Grape lug with dimensions in inches of 4 to 7 inches (inside) × 15¾ (outside) × 19 1/16 (outside), specified as container 38R;

(vi) Such other types and sizes of containers as may be approved by the committee for experimental or research purposes.

(2) The minimum net weight of grapes in any such containers, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material, and experimental containers, shall be 22 pounds based on the average net weight of grapes in a representative sample of containers.

(3) Such containers of grapes shall be plainly marked with the minimum net weight of grapes contained therein (with numbers and letters at least one-fourth inch in height), the name of the variety of the grapes and the name of the shipper.

(4) Such containers of grapes shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except that such requirement shall not apply to containers in the center tier of a lot palletized in a 3 box by a 3 box pallet configuration.

(c) *Organically grown grapes.* Organically grown grapes (defined to mean grapes which have been grown for market as natural grapes by performing all the normal cultural practices, but not using any inorganic fertilizers or agricultural chemicals including insecticides, herbicides, and growth regulators, except sulfur) need not meet the minimum individual berry size requirements of this section if the following conditions and safeguards are met: (1) The handler of such grapes has registered and certified with the committee on a date specified by the committee the location of the vineyard, the acreage and variety of grapes, and such other information as may be needed by the committee to carry out these provisions; (2) each container of organically grown grapes bears the words "organically grown" on one outside end of the container in plain letters in addition to requirements specified under paragraph (b)(3) of this section.

(d) *By-product grapes.* The handling of grapes for processing (raisins, crushing and other by-products) is exempt from requirements specified in paragraphs (a), (b), and (c) of this section if the committee determines that the person handling such grapes has secured the appropriate permit or order from the County Agricultural Commissioner, and the by-product plant or packing plant to which the grapes are shipped has adequate facilities for commercial processing, grading, packing, or manufacturing of by-products for resale.

(e) *Suspension of packing holidays.* Upon approval of the Committee, the prohibition against packing grapes on any Saturday or Sunday, or on May 30 or July 4, 1983, may be modified or suspended to permit the handling of grapes provided such handling complies with procedures and safeguards specified by the committee.

(f) Certain maturity, container, and pack requirements cited in this regulation are specified in the Administrative Code of California (Title 3), and are incorporated by reference. Copies of such requirements are available from William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250. Telephone 202-447-5975. They are also available for inspection at the office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register on March 29, 1983. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the Federal Register.

PART 944—[AMENDED]

§ 944.501 Table Grape Import Regulation 1.

(a) *Applicability to imports.* Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, during the period May 1, 1983, through August 15, 1983, the importation into the United States of any variety of vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, is prohibited unless such grapes meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table Grade, as set forth in the U.S. Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.880-51.912), and minimum maturity standards in accordance with applicable sampling and testing procedures specified in §§ 1436.3-1436.17 of the administrative Code of California (Title 3).

Such minimum maturity standards are incorporated by reference, copies of which are available from William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. They are also available for inspection at the office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register on March 29, 1983. These materials are incorporated as they exist

on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of table grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of table grapes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements may be reconditioned or exported. Any failed lot which is not exported shall be disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) It is determined that imports of table grapes, during the effective time of this regulation, are in most direct competition with table grapes grown in southeastern California, under M.O. 925 (7 CFR part 925). The grade, size, quality and maturity requirements of this section are the same as those applicable to table grapes grown in southeastern California.

§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, limes, oranges, and table grapes regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(a) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados, grapefruit, limes, oranges and table grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of the specified fruit, is required on all imports. Such inspection and certification services will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products (7 CFR part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados, grapefruit, limes, oranges, and table grapes should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the fruit will be imported:

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: April 11, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-9832 Filed 4-13-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1139

Milk in the Lake Mead Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues through July 1983 a previous suspension of certain provisions of the Lake Mead Federal milk order. The suspension removes the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The continuation of the earlier suspension for December 1982 through March 1983 was requested by a cooperative association to assure the efficient disposition of milk not needed for fluid use and still maintain producer status under the order for its dairy farmer members regularly associated with the market. Based on available information concerning the market's current supply conditions, continuation of the suspension is necessary to accommodate the efficient and orderly disposition of reserve milk supplies that are available to the market.

EFFECTIVE DATE: April 15, 1983.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Proposed Suspension: Issued March 18, 1983; published March 24, 1983 (48 FR 12388).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the issuance of the suspension in time to include April 1983 in the suspension period. The initial request for this action was received on March 9, 1983. A notice of proposed suspension was issued on March 18, 1983, inviting interested parties to comment on the proposed action by March 31, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Lake Mead marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 12388) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon. No opposing views were received.

After considering all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that

for the months of April 1983 through July 1983 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1139.13(d)(2), the sentence "The total quantity of milk so diverted may not exceed 30 percent in the months of March through July and 20 percent in other months of the producer milk which the association causes to be delivered to pool plants during the month".

2. In § 1139.13(d)(3), the sentence "The total quantity of milk so diverted may not exceed 30 percent in the months of March through July and 20 percent in other months of the milk received at such pool plants from producers and for which the operator of such plant is the handler during the month".

Statement of Consideration

This action continues through July 1983 a similar suspension that has been in effect since April 1982 (47 FR 17036, 47 FR 38496, 47 FR 55201). The suspension removes the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 30 percent of its total member milk received at all pool plants or diverted therefrom during the months of March through July and 20 percent during all other months. Similarly, the operator of a pool plant may divert up to 30 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of March through July and 20 percent during all other months.

A continuation of the suspension was requested by the Lake Mead Cooperative Association, which supplies a substantial part of the market's fluid milk needs and handles most of the market's reserve milk supplies. The basis for the cooperative's request is a continuing imbalance between the market's fluid milk requirements and the milk supplies available from producers. The same marketing conditions that prompted the previous suspension request are expected to prevail for the immediate future.

The cooperative stated that milk production continues to be heavy without a corresponding increase in sales to fluid milk outlets. Consequently, the cooperative expects its reserve milk supplies during the next few months to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. Unless the suspension is continued, the cooperative asserts that some of the milk of its member producers who have regularly supplied the fluid market would have to be moved uneconomically first to pool plants and then to nonpool manufacturing plants in order to continue producer status for such milk.

The cooperative association requested continuation of the current suspension until a more permanent regulatory solution to the supply-demand imbalance in the market could be formulated based on the record of a public hearing. The cooperative association has filed proposed amendments to the order that would accommodate present marketing conditions. It is expected that a hearing will be held in the near future on these as well as other proposals to amend the order.

Based on available information concerning the market's current supply conditions, a continuation of the suspension for the months of April through July 1983 is warranted, as it will accommodate the pooling and efficient handling of the proponent cooperative's reserve milk supplies pending a hearing at which proposals to amend the diversion provisions may be considered. In the absence of continuing the suspension, costly and inefficient movements of producer milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have been regularly associated with the market. Continuation of the suspension for the next several months will provide the necessary flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling milk not needed for the fluid market is by direct movements from producers' farms to manufacturing outlets. This suspension allows for such economic movements of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to comment. No opposing views were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1139.(d)(2) and (3) of the order are hereby suspended for April 1983 through July 1983.

(Secs 1–19, 48 Stat. 31, as amended, 7 U. S. C. 601–674)

Effective date: April 14, 1983.

Signed at Washington, D.C., on April 8, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-9621 Filed 4-13-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket No. 83-047]

Exotic Newcastle Disease; Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document quarantines a portion of Sonoma County and a portion of Santa Clara County in California because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portions of Sonoma County and Santa Clara County on April 5, 1983. Therefore, in order to prevent the dissemination of exotic Newcastle disease, it is necessary to take this action.

EFFECTIVE DATE: April 11, 1983.

FOR FURTHER INFORMATION CONTACT: W. W. Buisch, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: Exotic Newcastle disease is a communicable viral disease affecting all species of poultry and birds. This disease was diagnosed on a premises in Sonoma County and a premises in Santa Clara County on April 5, 1983.

This document on an emergency basis amends 9 CFR Part 82 by quarantining those portions of Sonoma County and Santa Clara County, California, where the disease was diagnosed. Therefore, the restrictions pertaining to the

interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from the areas quarantined, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Executive Order 12291 and Emergency Action

This final action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less that $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this interim rule warrants publication without opportunity for public comment. This amendment is necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry and birds, and must be made effective immediately to accomplish its purpose in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Certification Under the Regulatory Flexibility Act

James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because the quarantine imposed due to the existence of exotic Newcastle disease affects only two premises.

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and Poultry Products, Quarantine, Transportation, Exotic Newcastle disease.

PART 82—[AMENDED]

Accordingly, 9 CFR Part 82 is amended as follows:

In § 82.3 new paragraph (c)(2) is added to read:

§ 82.3 Imposition and removal of quarantine.

* * * * *

(c) * * *

(2) *California.* (i) The premises of Mendocino Bird Farm, 5355 Hall Road, Santa Rosa, Sonoma County.

(ii) The premises at 229 East St. Johns Street, San Jose, Santa Clara County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 7 CFR 2.17, 2.51, 371.2(d))

Done at Washington, D.C., this 11th day of April, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-9897 Filed 4-13-83; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Regional Licensing Program; Further Implementation

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations concerning the domestic licensing of source, byproduct, and special nuclear material (hereafter referred to as nuclear materials) to provide information about the expansion of NRC's decentralized licensing program. The amendment expands the program for materials licensees from Region I and III to include Regions II, IV, and V. Publication of the amendment is to inform present or prospective licensees of current NRC practice and organization.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Vandy L. Miller, Chief, Material Licensing Branch.

ADDRESS: Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 427–4002.

SUPPLEMENTARY INFORMATION: On May 27, 1982, the Nuclear Regulatory Commission (NRC) amended its rules on the domestic licensing of nuclear materials to decentralize part of its licensing program (47 CFR 23138). The NRC is again amending its regulations concerning the domestic licensing of materials to expand decentralization of the licensing program. The revised provisions in §§ 30.6, 40.5, and 70.5 specify that inquiries concerning NRC regulations in 10 CFR Parts 30, 33, 35, 40, and 70, and applications for certain types of licenses, license renewals, and revisions be sent to the appropriate regional office, rather than NRC headquarters offices. These amendments do not apply to Agreement States and Federal facilities, but do apply to all other licensees and applicants in non-Agreement States and the District of Columbia. Delegations of authority to the Regional Administrators are contained in NRC Manual Chapter 0128. The changes to §§ 30.6, 40.5, and 70.5 are nonsubstantive amendments. The revised sections indicate the type of licensing authority delegated to Regional Administrators and the addresses for NRC regional offices. Since these are minor procedural amendments, the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply.

Paperwork Reduction Act Statement

This final rule contains no new requirement for recordkeeping, reporting, application, or any other type of information collection and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

List of Subjects in 10 CFR Parts 30, 40, and 70

Nuclear power plants, Nuclear materials.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Parts 30, 40, and 70 are published as a document subject to codification.

The authority citation for this document is:

Authority: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. Section 30.6 is revised to read as follows:

§ 30.6 Communications.

(a) Unless otherwise specified or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in Parts 30 through 35 of this chapter and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) By delivery in person to the Commission's offices to the Director, Office of Nuclear Material Safety and Safeguards at:

(i) 1717 H Street, N.W., Washington, D.C.; or

(ii) 7915 Eastern Avenue, Willste Building, Silver Spring, Maryland.

(b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, and revoke licenses for nuclear materials issued pursuant to 10 CFR Parts 30, 33, 35, 40, and 70 to all persons (except Federal agencies) for academic, medical, and industrial uses, with the following exceptions:

(i) Irradiators.

(ii) Cardiac pacemakers.

(iii) Medical teletherapy units.

(iv) Well logging.

(v) Manufacturing or distribution of nuclear materials or products containing nuclear materials.

(vi) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's headquarters to the Regional Administrators.

(vii) Health and safety design review of sealed sources and devices, and approval, for licensing purposes, of sealed sources and devices.

(viii) Industrial radiography.

(ix) Commercial nuclear laundries.

(x) Processing for extraction of other elements (zirconium, halfnium, or rare earths).

(xi) Commercial low-level waste receipt and/or packaging.

(2) *Submissions.* (i) *Region I.* With the exception of Federal facilities, the regional licensing program involves the following Region I non-Agreement States and the District of Columbia: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region I, Nuclear Material Section B, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) *Region II.* With the exception of Federal facilities, the regional licensing program involves the following Region II non-Agreement States and territories: Virginia, West Virginia, Puerto Rico, and the Virgin Islands. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region II, Material Radiation Protection Section, 101 Marietta Street, Suite 2900, Atlanta, Georgia 30303.

(iii) *Region III.* With the exception of Federal facilities, the regional licensing program involves the following Region III non-Agreement States: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

(iv) *Region IV.* With the exception of Federal facilities, the regional licensing program involves the following Region IV non-Agreement States: Montana, Oklahoma, South Dakota, Utah, and Wyoming. All inquires, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region IV, Material Radiation Protection Section, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

(v) *Region V.* With the exception of Federal facilities, the regional licensing program involves the following Region V non-Agreement States and a territory: Alaska, Hawaii, and Guam. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region V, Material Radiation Protection Section, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

2. Section 40.5 is revised to read as follows:

§ 40.5 Communications.

(a) Unless otherwise specified or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in this part and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) By delivery in person to the Commission's offices to the Director, Office of Nuclear Material Safety and Safeguards at:

(i) 1717 H Street, N.W., Washington, D.C.; or

(ii) 7915 Eastern Avenue, Willste Building, Silver Spring, Maryland.

(b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its regional licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, and revoke licenses for nuclear materials issued pursuant to 10 CFR Parts 30, 33, 35, 40 and 70 to all persons (except Federal agencies) for academic, medical, and industrial uses, with the following exceptions:

(i) Irradiators.

(ii) Cardiac pacemakers.

(iii) Medical teletherapy units.

(iv) Well logging.

(v) Manufacturing or distribution of nuclear materials or products containing nuclear materials.

(vi) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's headquarters to the Regional Administrators.

(vii) Health and safety design review of sealed sources and devices, and approval, for licensing purposes, of sealed sources and devices.

(viii) Industrial radiography.

(ix) Commercial nuclear laundries.

(x) Processing for extraction of other elements (zirconium, halfnium, or rare earths).

(xi) Commercial low-level waste receipt and/or packaging.

(2) *Submissions.* (i) *Region I.* With the exception of Federal facilities, the regional licensing program involves the following Region I non-Agreement States and the District of Columbia: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region I, Nuclear Material Section B, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) *Region II.* With the exception of Federal facilities, the regional licensing program involves the following Region II non-Agreement States and territories: Virginia, West Virginia, Puerto Rico, and the Virgin Islands. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region II, Material Radiation Protection Section, 101 Marietta Street, Suite 2900, Atlanta, Georgia 30303.

(iii) *Region III.* With the exception of Federal facilities, the regional licensing program involves the following Region III non-Agreement States: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All inquiries, communications and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

(iv) *Region IV.* With the exception of Federal facilities, the regional licensing program involves the following Region IV non-Agreement States: Montana, Oklahoma, South Dakota, Utah, and Wyoming. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region IV, Material Radiation Protection Section, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

(v) *Region V.* With the exception of Federal facilities, the regional licensing program involves the following Region V non-Agreement States and a territory: Alaska, Hawaii, and Guam. All inquiries, communications and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region V, Material Radiation Protection Section, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. Section 70.5 is revised to read as follows:

§ 70.5 Communications.

(a) Unless otherwise specified or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in this part and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C.20555.

(2) By delivery in person to the Commission's offices to the Director, Office of Nuclear Material Safety and Safeguards at:

(i) 1717 H Street, N.W., Washington, D.C.; or

(ii) 7915 Eastern Avenue, Willste Building, Silver Spring, Maryland.

(b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its regional licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, and revoke licenses for nuclear materials issued pursuant to 10 CFR Parts 30, 33, 35, 40 and 70 to all persons (except Federal agencies) for academic, medical, and industrial uses, with the following exceptions:

(i) Irradiators.

(ii) Cardiac pacemakers.

(iii) Medical teletherapy units.

(iv) Well logging.

(v) Manufacturing or distribution of nuclear materials or products containing nuclear materials.

(vi) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's headquarters to the Regional Administrators.

(vii) Health and safety design review of sealed sources and devices, and approval, for licensing purposes, of sealed sources and devices.

(viii) Industrial radiography.

(ix) Commercial nuclear laundries.

(x) Processing for extraction of other elements (zirconium, halfnium, or rare earths).

(xi) Commercial low-level waste receipt and/or packaging.

(2) *Submissions.* (i) *Region I.* With the exception of Federal facilities, the regional licensing program involves the following Region I non-Agreement States and the District of Columbia: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region I, Nuclear Material Section B, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) *Region II.* With the exception of Federal facilities, the regional licensing

program involves the following Region II non-Agreement States and territories: Virginia, West Virginia, Puerto Rico, and the Virgin Islands. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region II, Material Radiation Protection Section, 101 Marietta Street, Suite 2900, Atlanta, Georgia 30303.

(iii) *Region III.* With the exception of Federal facilities, the regional licensing program involves the following Region III non-Agreement States: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

(iv) *Region IV.* With the exception of Federal facilities, the regional licensing program involves the following Region IV non-Agreement States: Montana, Oklahoma, South Dakota, Utah, and Wyoming. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region IV, Material Radiation Protection Section, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

(v) *Region V.* With the exception of Federal facilities, the regional licensing program involves the following Region V non-Agreement States and a territory: Alaska, Hawaii, and Guam. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region V, Material Radiation Protection Section, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596.

Dated at Bethesda, Md., this 31st day of March 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-9925 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-38-AD; Amdt. 39-4626]

Airworthiness Directives; Aeronautica Macchi S.p.A. Model AL60 and AL60-B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Aeronautica Macchi S.p.A. Model AL60 and AL60-B airplanes which requires visual inspection of the engine mount structure front left hand (L.H.) brace for dents caused by possible contact with the engine exhaust manifold and pipe, and repair if necessary. Repeated contact by an improperly located exhaust pipe attach collar can dent the engine mount front L.H. strut and weaken it seriously. This AD will assure inspection and repair of the engine mount dents due to contact with engine exhaust system and relocation of the exhaust system to preclude damage to the engine mount structure.

DATES: Effective Date: April 14, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: Aeronautica Macchi S.p.A. Service Bulletin No. SB-L-0005, Revision 1, dated September 26, 1978, applicable to this AD may be obtained from Aeronautica Macchi S.p.A., Via Sanvito Silvestro, 80, 21100 Varese, Italy. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or Mr. Larry Werth, Foreign FAR-23 Section, ACE-109, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: Aeronautica Macchi S.p.A. has determined that a condition may exist wherein an improperly installed exhaust pipe can vibrate against the front L.H. brace of the engine mount and dent it enough to create a hazard on its Model AL60 and AL60-B airplanes. As a result, Aeronautica Macchi S.p.A. has issued Aer Macchi Service Bulletin No. SB-L-0005, Revision 1, dated September 26, 1978, which recommends visual inspection of the engine mount front L.H. brace for dents produced by possible contact with the exhaust pipe/manifold connecting collar, and repair if necessary. The Registro Aeronautico Italiano (RAI) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Italy has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the RAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Aer Macchi Service Bulletin No. SB-L-0005, Revision 1, dated September 26, 1978, and the mandatory classification of this Service Bulletin by the RAI.

Based on the foregoing, the FAA has determined that the condition addressed by this Service Bulletin is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States. Therefore, an AD is being issued requiring visual inspection of the engine mount front L.H. brace for dents caused by contact with engine exhaust system and repair, if necessary, in accordance with Aer Macchi Service Bulletin No. SB-L-0005 on Aeronautica Macchi Model AL60 andAL60-B airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

AERONAUTICA MACCHI S.P.A.: Applies to Model AL60 and AL60-B airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To preclude failure of the engine mount structure, accomplish the following:

(a) Within the next 100 hours time-in-service and thereafter at intervals not to exceed 100 hours time-in-service, visually inspect the front left-hand brace of the engine mount for dents as specified in Aer Macchi Service Bulletin No. SB-L-0005, Revision 1, dated September 26, 1978; herein referred to as the Service Bulletin.

(1) If no dents are found in the front left hand brace of the engine mount during accomplishment of the visual inspection in accordance with paragraph (a) of this AD, return aircraft to service.

(2) If dents of a depth less than 0.5mm are found in the front left hand brace of the engine mount during accomplishment of the visual inspection in accordance with paragraph (a) of this AD, before further flight, reposition attaching collar of the exhaust ducts as high as possible to obtain clearance between the attaching collar and the left hand brace of the engine mount and return aircraft to service.

(3) If dents of a depth of 0.5mm or greater are found in the front left hand brace of the engine mount during accomplishment of the visual inspection in accordance with paragraph (a) of this AD, before further flight, repair in accordance with instructions provided in the "Description and Instruction Data" section of the Service Bulletin, reposition attaching collar of the exhaust ducts as high as possible to obtain clearance between the attaching collar and the left hand brace of the engine mount and return aircraft to service.

(b) Repair those aircraft which have previously been modified in accordance with the instructions contained in Aer Macchi Service Bulletin No. AL60/12 dated November 23, 1964, within the next 1200 hours time-in-service of the modification, in accordance with paragraph (a)(3) of this AD.

(c) Operators who have not kept records of hours time-in-service of the engine mounting structure must substitute airplane hours time-in-service in lieu thereof.

(d) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(e) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This amendment becomes effective on April 14, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on March 29, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-9743 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-21-AD; Amdt. 39-4629]

Airworthiness Directives; McDonnell Douglas Model DC-9 and Military C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) applicable to McDonnell Douglas Model DC-9 and Military C-9 series airplanes which requires inspection, rework and/or replacement, if necessary, of the forward galley service doors, to prevent crack growth. This amendment provides for use of a method outlined in the manufacturer's service bulletins (which were not available when the AD was originally issued) for the inspection/rework and replacement of forward galley service doors, and also provides termination action. This amendment provides an alternate means of compliance, and imposes no additional burden on any person.

DATE: Effective April 20, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: Airworthiness Directive AD 81-10-10, Amendment 39-4116 (46 FR 27096, dated 5/18/81), applicable to McDonnell Douglas Model DC-9 series airplanes, requires inspection, rework and replacement, if necessary, of the forward galley service doors. After issuance of Amendment 39-4116, McDonnell Douglas issued DC-9 Service Bulletins 52-125, dated August 11, 1981, and 52-127, dated January 10, 1983, providing additional instructions for the inspection/rework and replacement of forward galley service door. Service Bulletins 52-125 and 52-127, provide for terminating action.

Since this amendment is clarifying in nature and provides an alternate means of compliance, it has no adverse economic impact, and imposes no additional burden on any person, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD81-10-10, Amendment 39-4116 (46 FR 27096, dated May 18, 1981), by revising paragraphs A, B and C to read as follows:

A. Within the next 30 days after the effective date of this amendment, unless accomplished within the last 3,100 landings, perform an operational check of the door, and a visual inspection for general condition of door, pan and seals, door stops, and set screws. If corrective actions are deemed necessary, accomplish rework and/or replacement per operator's approved maintenance program.

Note.—Removal of seals and liner not required to perform this inspection.

B. In accordance with the schedule below, perform a close visual inspection of the door pan, forward and aft ends of horizontal beams (frames), including the bend radius along the upper and lower flanges, tee fittings and clips, or inspect in accordance with McDonnell Douglas DC-9 Service Bulletins 52-125 dated August 11, 1981, or 52-127 dated January 10, 1983, as applicable.

Note.—Removal of seals is not required to perform this inspection.

1. Initial visual inspection schedule (unless accomplished within the last 3,100 landings):

Accumulated landings (on effective date of this AD)	Initial inspection (from effective date of this AD) (landings)
12,000 to 14,499	4,000
15,000 to 19,999	2,900
20,000 to 24,999	1,800
25,000 and over	900

Note.—If the total number of landings cannot be determined for a particular door, for the purpose of this AD it must be assumed the door has 25,000 or more landings.

2. Repeat the inspections specified in paragraph B.1., above, at intervals not to exceed 4,000 landings from the last inspection until terminating action specified in paragraph C., below, is accomplished.

3. For airplanes with less than 12,000 landings on the effective date of this AD, inspect in accordance with paragraph B., above, before the accumulation of 16,000 landings.

4. If no cracks are found, continue repetitive inspections per paragraph B.2., above, until terminating actions specified in paragraph C.1., below, is accomplished.

5. If cracks are found, install applicable repairs on cracked pan and/or beams and accomplish repetitive inspections per paragraph B.2., above, until terminating action specified in paragraph C.2., below, is accomplished. For Part Numbers 5910084-(* * *) and 5910583-(* * *), with cracks which exceed the limits defined in Douglas Service Rework Drawing 5939988 or J060167, respectively, the affected beam(s) must be replaced with new like beam(s) prior to installing preventative repairs.

Note.—* * * denotes any configuration.)"

6. Previous accomplishment of preventative repairs, required by this AD, which are outlined in McDonnell Douglas Service Rework Drawing 5939988, may be considered as equivalent methods for complying with the requirements of this AD.

C. Terminating Action: The following constitutes terminating action for this AD:

1. For aircraft found to be crack free, accomplish the applicable preventative repair per Paragraph 2, Accomplishment Instructions specified in McDonnell Douglas DC-9 Service Bulletins 52-125 dated August 11, 1982, or 52-127 dated January 10, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

2. For aircraft found to have cracks, accomplish the applicable repairs and inspections and install preventative repairs per Paragraph 2, Accomplishment Instructions specified in McDonnell Douglas DC-9 Service Bulletins 52-125 dated August 11, 1982, or 52-127 dated January 10, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region."

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective April 20, 1983.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that provides an alternate means of compliance, and does not impose any additional burden on any person. Therefore: (1) It is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is relieving in nature, and because it involves few, if any, small entities.

Issued in Seattle, Washington on March 31, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-9742 Filed 4-13-83; 8:45 am]

BILLING CODE 4810-13-M

14 CFR Part 39

[Docket No. 83-NM-26-AD; Amdt. 39-4630]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) which requires that the drain valves in the forward and aft cargo compartments of certain Boeing 767 aircraft be inspected to ensure that valve closure occurs when the airplane is pressurized. One airplane was found to have interference between the drain housing and valve components resulting in the valve failing to seal. The leakage resulting from an improper seal will compromise the fire protection system in the affected compartment, by allowing fire extinguishing agent to escape at a high rate.

DATE: Effective April 25, 1983.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained from The Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Systems & Equipment Branch, ANM-130S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2500. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: During an inflight test of the cargo compartment fire protection system at Boeing, the fire extinguishing agent escaped through a drain hole that had a drain valve stuck in the open position. The extinguishing agent concentration decayed at a significantly greater rate than was demonstrated during airplane certification testing. An inspection of the open valve showed that the drain housing was interfering with the spring and valve travel due to incorrect installation. Airplanes affected by this AD may also have drain valves that were incorrectly installed. This action is necessary to locate any sticking drain valves and to correct the valve installation, if necessary, to prevent the potential loss of extinguishing agent and preserve the integrity of the cargo compartment fire protection system.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this Amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Boeing Model 767 Airplanes VA006-VA012, VA302-VA306, VA501-VA503, VA701-VA702, VA801-VA802, and VA805. To prevent degradation of cargo compartment fire protection system effectiveness, accomplish the following, unless already accomplished.

A. Within 30 days after the effective date of this AD, inspect all forward and aft cargo

compartment drain valves and rework, if necessary, in accordance with Boeing Service Bulletin 767-51-1 dated January 14, 1983, or later FAA approved revision.

B. Aircraft may be operated after the 30 day compliance period if the inspection has not been completed, provided no cargo is carried in the affected cargo compartments.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the above specified Service Bulletin from the manufacturer may obtain copies upon request to The Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or it may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective April 25, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on April 5, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-9652 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-16-AD; Amdt. 39-4631]

Airworthiness Directives; De Havilland Aircraft of Canada Model DHC-7 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to De Havilland Aircraft of Canada Model DHC-7 airplanes which requires periodic functional checks of the ground spoilers until a prescribed modification is incorporated. An incident was reported where, prior to takeoff, the ground spoilers were extend without the caution light indicating any abnormality. This condition will result in loss of lift.

DATES: Effective April 25, 1983.

ADDRESSES: The service bulletin specified in this airworthiness directive may be obtained upon request to De Havilland Aircraft of Canada, Ltd., Garrat Blvd., Downsview, Ontario M3K 1Y5, Canada, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aricraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has classified De Havilland of Canada, Ltd., Alert Service Bulletin No. A7-27-46 as mandatory. In a recent incident, ground spoilers were extended prior to takeoff. This condition was caused by both ground spoiler selector solenoid valves failing in the open position holding the spoilers in the extended position. An investigation determined that "O" ring debris from the No. 1 hydraulic system pressure manifold had jammed the spool of each valve in mid stroke, blocking off the return port. Due to both spools jamming in the same position, the caution light did not indicate any abnormality since it only shows a problem when a difference in position exists between the valves. The service bulletin prescribed repetitive inspections on the ground spoiler control system until Modification No. 7/2294 or 7/2796 is incorporated.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which would require periodic functional checks on the ground spoiler control system until Modification No. 7/2294 or 7/2296 is incorporated on all De Havilland Aricraft of Canada Model DHC-7 Airplanes.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

De Havilland Aircraft of Canada: Applies to all Model DHC-7 airplanes, certificated in all categories. To detect failure of the ground spoiler selector valves accomplish the following, unless already accomplished:

1. Perform a functional check on the ground spoiler control system within the next 15 hours or seven days time in service, whichever occurs first, after the effective date of this AD, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Alert Service Bulletin No. A7-27-46, Revision A, Dated November 19, 1982.

2. If the check described shows incorrect indications, operate the airplane in accordance with the Aircraft Flight Manual Minimum Equipment List Supplement No. 4 until corrective modification is accomplished.

3. Repeat the functional check at intervals not greater than 15 hours or seven days time in service, whichever occurs first, until Modification No. 7/2294 or No. 7/2296 is corporated.

4. Terminating action to this AD is achieved by incorporating Modification No. 7/2294 or No. 7/2296.

5. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

6. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment or inspections and/or modifications required by this AD.

This amendment becomes effective April 25, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is

not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a singificant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION."**

Issued in Seattle, Washington on April 5, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-9851 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AWA-1]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of VOR Federal Airways, Amarillo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes certain alternate VOR Airways and renumbers other alternate segments in the Amarillo, TX, area. This eliminates the assignment of alternate airway segments for the affected airways and supports the FAA's commitment to the International Civil Aviation Organization (ICAO) to phase out alternate airway descriptions in the National Airspace System.

EFFECTIVE DATE: June 9, 1983.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On February 7, 1983 (48 FR 5572), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke certain alternate VOR Federal Airways and renumber others in the Amarillo, TX, area. This action is consistent with the FAA's commitment to ICAO to phase out alternate airways, either by renumbering or revoking, throughout the National Airspace System. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes and renumbers certain alternate airways between Amarillo, TX, and Texico, NM, Sayre, OK, and Dalhart, TX.

List of Subjects 14 CFR Part 71

VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., June 9, 1983, as follows:

V-81 [Amended]

By deleting the words "including a west alternate via INT Amarillo 301° and Dalhart 157° radials;"

V-140 [Amended]

By deleting the words "via Sayre, OK, including a N alternate via INT Amarillo 072° and Sayre 288° radials;" and substituting for them the words "via Sayre, OK;"

V-440 [Amended]

By deleting the words "From Sayre, OK, via" and substituting for them the words "From Amarillo, TX, via INT Amarillo 072° and Sayre, OK, 288°; Sayre;"

V-280 [Amended]

By deleting the words "INT Texico 021° and Amarillo, TX, 252° radials; Amarillo, including a south alternate from Texico to Amarillo via INT Texico 044° and Amarillo 252° radials;" and substituting for them the words "INT Texico 044° and Amarillo, TX, 252° radials; Amarillo;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on April 7, 1983.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-9747 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AWA-7]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Amendment to Continental Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action adds Restricted Areas R-3202D and R-2930 to the Continental Control Area and deletes Restricted Areas R-5504 and R-2602 from the Continental Control Area.

DATES: Effective date April 14, 1983. Comments must be received on or before May 30, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-7, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Boyd Archer, Airspace Regulations and Obstructions Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves adding and deleting restricted areas to/from the Continental Control Area and was not preceded by notice and public

procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.151 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to add Restricted Areas R-3202D, Saylor Creek, ID, and R-2930, Cape Kennedy, FL, to the Continental Control Area. These restricted areas were established in Airspace Dockets 82-ANM-3 and 82-ANM-6 respectively, published October 28, 1982. Addition of these areas was inadvertently not included in the Continental Control Area when published. Additionally, this amendment deletes Restricted Areas R-5504, Wilmington, OH, and R-2602, Ft. Carson, CO, from the Continental Control Area. These areas were previously revoked and subsequent deletion from Continental Control Areas was not accomplished. Section 71.151 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

Under the circumstances presented, the FAA concludes that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 30 days after its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 71

Continental Control Area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.151 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., April 14, 1983, as follows:

1. R-2602 Ft. Carson, CO [Revoked]
2. R-2930 Cape Kennedy, FL [Added]
3. R-3202D Saylor Creek, ID [Added]
4. R-5504 Wilmington, OH [Revoked]

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on April 6, 1983.

B. Keith Potts,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-9749 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR PART 71

[Airspace Docket No. 83-ASO-16]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, And Reporting Points; Alteration of Control Zone, Sumter, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Sumter, South Carolina, control zone by realigning and reducing the size of the arrival extensions. Instrument approach procedures at Shaw Air Force Base are predicated, in part, upon the Shaw TACAN. The Air Force has relocated the TACAN from an off-airport location to a new site located on the airport. This relocation requires a realignment of instrument approach procedure final approach courses and permits a reduction in the size of the control zone arrival extension.

DATES: Effective Date: 0901 G.m.t., June 9, 1983.

Comments must be received on or before May 9, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments of the Rule

Although this action is in the form of a final rule, which involves realignment and reduction in size of control zone arrival extensions and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rule making proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspect of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Sumter, South Carolina, control zone by realigning and reducing the size of arrival extensions associated with instrument approach procedures at Shaw AFB. The Air Force has relocated the Shaw TACAN to a new on-airport site which resulted in changes to instrument approach procedures. The changes necessitate a realignment of control zone arrival extensions and permit a reduction in the size of the extensions. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need to alter the control zone so that it is properly aligned to accommodate instrument approach procedures and to ensure that the size of the arrival extensions are not excessive. The changes are so minor and nonsubstantive I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., June 9, 1983, as follows:

Sumter, SC—Revised

Within a 5-mile radius of Shaw AFB (Lat. 33°58'15"N., Long. 80°28'19"W.); within 1.5 miles each side of Shaw TACAN 037° and 217° radials, extending from the 5-mile radius zone to 7 miles northeast and southwest of the TACAN.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on April 1, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-9918 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-14]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone and Transition Area, Kinston, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Kinston, North Carolina, control zone and transition area by revising the geographical coordinates of the airport and the name of the airport. The coordinates and airport name are improperly listed in the descriptions and this amendment will correct the deficiencies so that the descriptions are technically correct. No change in airspace is intended by this action.

DATES:

Effective date: 0901 G.m.t., June 9, 1983.

Comments must be received on or before May 9, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves technical revisions to the description of the control zone and transition area and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revise the geographical coordinates of Stallings Field and to revise the name of the airport upon which controlled airspace is predicated. The coordinates and airport name contained in the present descriptions are improper. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need to list the proper geographical coordinates of the airport and to revise the name Stallings Field to Eastern Regional Jetport at Stallings Field so that the description of the control zone and transition area will be technically correct. The changes are so minor and nonsubstantive I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) are further amended, effective 0901 G.m.t., June 9, 1983, as follows:

Kinston, NC—Revised

By amending 71.171 in the description of the Kinston, NC, control zone by deleting the words, "Stallings Field (lat. 35°19'36" N., long. 77°37'02" W.)", and substituting for them the words, "Eastern Regional Jetport at Stallings Field (Lat. 35°19'38" N., Long. 77°37'01" W.)."

By amending 71.181 in the description of the Kinston, NC, transition area by deleting the words, "Stallings Field (lat. 35°19'36" N., long. 77°37'02" W.)", and substituting for them the words "Eastern Regional Jetport at Stallings Field (Lat. 35°19'38" N., Long. 77°37'01" W.)."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on March 29, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-9536 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-ASW-5]

Alteration of Transition Area and Designation of Control Zone: Houma, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and designate a control zone at Houma, LA. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Houma-Terrebonne Airport. This amendment is necessary since the FAA will commission an airport traffic control tower (ATCT) at Houma-Terrebonne and the airport will meet the requirements for the establishment of controlled airspace to the surface. In addition, the RNAV approaches to Runways 17 and 35 require 700-foot transition area extensions to the north and south.

EFFECTIVE DATE: June 9, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On February 10, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 6125) stating that the Federal Aviation Administration proposed to alter the Houma, LA, transition area and designate a control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition Areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, are amended, effective 0901 G.m.t., June 9, 1983, as follows:

Subpart F § 71.171:

Houma, LA [New]

Within a 5-mile radius of the Houma-Terrebonne Airport (latitude 29°34'03" N., longitude 90°39'37" W.); and within 2 miles each side of the 123° radial of the Tibby VORTAC extending from the 5-mile radius area to the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Subpart G § 71.181:

Houma, LA [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Houma-Terrebonne Airport (latitude 29°34'03"N., longitude 90°39'37"W.); and within 2 miles each side of the 123° radial of the Tibby VORTAC extending from the 6.5-mile radius area to the VORTAC; and within 4.5 miles each side of a 360° bearing from the airport extending from the 6.5-mile radius area to 13 miles north of the airport; and within 4.5 miles each side of a 180° bearing from the airport extending from the 6.5-mile radius area to 9 miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on April 4, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-9802 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-3]

Designation of Transition Area and Alteration of Control Zone: Wink, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area and alter the control zone at Wink, TX. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Winkler County Airport. This amendment is necessary since a review of the designated airspace revealed that no 700-foot transition area existed, and the control zone is improperly described and inadequate for the protection of aircraft.

EFFECTIVE DATE: June 9, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On February 7, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 5571) stating that the Federal Aviation Administration proposed to designate the Wink, TX, transition area and alter the control zone. The docket number was inadvertently printed as 83-ASW-33 instead of the correct number 83-ASW-3. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, are amended, effective 0901 G.m.t., June 9, 1983, as follows:

Subpart G 71.181:

Wink, TX [New]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Winkler County Airport (latitude 31°46'45" N., longitude 103°12'15" W.).

Subpart F 71.171:

Wink, TX [Revised]

Within a 5-mile radius of the Winkler County Airport (latitude 31°46'45"N., longitude 103°12'15"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on April 4, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-9903 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-7]

Designation of Transition Area; Port O'Connor, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area at Port O'Connor, TX. The intended effect of the amendment is to provide controlled airspace for helicopters executing a new point-in-space instrument approach procedure to the Petroleum Helicopters, Inc., (PHI) Heliport. This amendment is necessary since a new point-in-space helicopter approach procedure will exist to the PHI Heliport located approximately 3 miles west of Port O'Connor, TX.

EFFECTIVE DATE: June 9, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On February 10, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 6127) stating that the Federal Aviation Administration proposed to designate the Port O'Connor, TX, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No comments were received. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, is amended, effective 0901 GMT, June 9, 1983, as follows:

Port O'Connor, TX—New

That airspace extending upward from 700 feet above the surface 2.5 miles each side of the Palacios VORTAC (latitude 28°45'51" N., longitude 96°18'21" W.) 208° radial extending from 18 miles to 25 miles southwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on April 4, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-9854 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 23598; Amdt. No. 95-310]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these

regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT, April 14, 1983. (Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on April 5, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

BILLING CODE 4910-13-M

FROM	TO	MEA

§95.1001 DIRECT ROUTES-U.S.

IS ADDED TO READ

FROM	TO	MEA
SAN ANGELO, TX VORTAC VIA SJT VORTAC 073 & BWD VOR 224	BROWNWOOD, TX VOR	4500

IS AMENDED TO READ IN PART

FROM	TO	MEA
BROWNWOOD, TX VOR	WACO, TX VORTAC	5000
FORT STOCKTON, TX VORTAC	SAN ANGELO, TX VORTAC	7000
GRAND ISLAND, NE VORTAC *2900 - MOCA	LINCOLN, NE VORTAC	*4000 MAA-35000
RICH MOUNTAIN, OK VORTAC	HOT SPRINGS, AR VOR	4000
SAN ANGELO, TX VORTAC	ROCKSPRINGS, TX VORTAC	4200
SAN ANGELO, TX VORTAC	BROWNWOOD, TX VOR	3500

IS AMENDED TO DELETE

FROM	TO	MEA
BROWNWOOD, TX VOR *3000 - MOCA	ACTON, TX VORTAC	*3700
BROWNWOOD, TX VOR	MILLSAP, TX VORTAC	3500
OZMOS, TX FIX *4000 - MOCA	SAN ANGELO, TX VORTAC	*7000
REDIE, AR FIX	LITTLE ROCK, AR VORTAC	3300
SULPH, AR FIX	REDIE, AR FIX	2500

§95.6001 VOR FEDERAL AIRWAY 1

IS AMENDED TO READ IN PART

FROM	TO	MEA
NORFOLK, VA VORTAC *1200 - MOCA	CAPE CHARLES, VA VORTAC	*2000

§95.6003 VOR FEDERAL AIRWAY 3

IS AMENDED TO READ IN PART

FROM	TO	MEA
LINDEN, VA VORTAC *3900 - MOCA	SHAWNEE, VA VORTAC	*4500

IS AMENDED TO DELETE

FROM	TO	MEA
BISCAYNE BAY, FL VORTAC VIA E ALTER.	PALM BEACH, FL VORTAC VIA E ALTER.	2000

§95.6006 VOR FEDERAL AIRWAY 6

IS AMENDED TO READ IN PART

FROM	TO	MEA
OAKLAND, CA VORTAC VIA S ALTER. *4700 - MCA SALAD FIX, NE BND	*SALAD, CA FIX VIA S ALTER.	4000

§95.6006 VOR FEDERAL AIRWAY 6—Continued

IS AMENDED TO DELETE

FROM	TO	MEA
WATERVILLE, OH VORTAC VIA S ALTER.	DRYER, OH VORTAC VIA S ALTER.	2700
DRYER, OH VORTAC VIA N ALTER.	YOUNGSTOWN, OH VORTAC VIA N ALTER.	3000

§95.6007 VOR FEDERAL AIRWAY 7

IS AMENDED TO DELETE

FROM	TO	MEA
CHICAGO HEIGHTS, IL VORTAC VIA E ALTER.	BRAIK, IL FIX VIA E ALTER.	2500
STORY, IL FIX VIA E ALTER. *1700 - MOCA	TALOR, WI FIX VIA E ALTER.	*3000

§95.6008 VOR FEDERAL AIRWAY 8

IS AMENDED TO READ IN PART

FROM	TO	MEA
BELLAIRE, OH VORTAC *2100 - MOCA	GALLS, PA FIX	*3600

§95.6012 VOR FEDERAL AIRWAY 12

IS AMENDED TO READ IN PART

FROM	TO	MEA
MIROR, KS FIX	WICHITA, KS VORTAC	3500
WICHITA, KS VORTAC	DECOR, KS FIX	3500
HARRISBURG, PA VORTAC *2300 - MOCA	EAST TEXAS, PA VORTAC	*3000

§95.6013 VOR FEDERAL AIRWAY 13

IS AMENDED TO READ IN PART

FROM	TO	MEA
BARUM, MN FIX	DULUTH, MN VORTAC	3000

§95.6014 VOR FEDERAL AIRWAY 14

IS AMENDED TO DELETE

FROM	TO	MEA
DRYER, OH VORTAC VIA N ALTER.	FAILS, OH FIX VIA N ALTER.	2500
FAILS, OH FIX VIA N ALTER.	ERIE, PA VORTAC VIA N ALTER.	2700

§95.6023 VOR FEDERAL AIRWAY 23

IS AMENDED TO READ IN PART

FROM	TO	MEA
VOLTA, CA FIX VIA W ALTER.	STOCKTON, CA VORTAC VIA W ALTER.	3000
TALEM, OR FIX	*MEDFORD, OR VORTAC NW BND	8000
	SE BND	11000
*7500 - MCA MEDFORD VORTAC, SE BND		

§95.6026 VOR FEDERAL AIRWAY 26

IS AMENDED TO DELETE

FROM	TO	MEA
LANSING, MI VORTAC VIA N ALTER.	CHEMS, MI FIX VIA N ALTER.	2900
CHEMS, MI FIX VIA N ALTER.	SALEM, MI VORTAC VIA N ALTER.	2800

§95.6028 VOR FEDERAL AIRWAY 28

IS AMENDED TO READ IN PART

FROM	TO	MEA
OAKLAND, CA VORTAC *4700 - MCA SALAD FIX, NE BND	*SALAD, CA FIX	4000

§95.6035 VOR FEDERAL AIRWAY 35

IS AMENDED TO DELETE

FROM	TO	MEA
BISCAYNE BAY, FL VORTAC VIA W ALTER.	FAMIN, FL FIX VIA W ALTER.	2000
FAMIN, FL FIX VIA W ALTER. *3100 - MRA **1500 - MOCA	*VEGIE, FL FIX VIA W ALTER.	**5000
VEGIE, FL FIX VIA W ALTER.	DEEDS, FL FIX VIA W ALTER.	2000

§95.6037 VOR FEDERAL AIRWAY 37

IS AMENDED TO READ IN PART

FROM	TO	MEA
ELKINS, WV VORTAC *4400 - MOCA	CLARKSBURG, WV VOR	*5000

§95.6039 VOR FEDERAL AIRWAY 39

IS AMENDED TO READ IN PART

FROM	TO	MEA
LINDEN, VA VORTAC *3900 - MOCA	SHAWNEE, VA VORTAC	*5000
LANCASTER, PA VORTAC *2200 - MOCA	BOYER, PA FIX	*2900
VAPER, MA FIX *2900 - MOCA	GARDNER, MA VORTAC	*3500

§95.6043 VOR FEDERAL AIRWAY 43

IS AMENDED TO READ IN PART

FROM	TO	MEA
ERIE, PA VORTAC *2800 - MOCA	BROTO, NY FIX	*3000
BROTO, NY FIX *1200 - MOCA	U.S. CANADIAN BORDER	*3500

IS AMENDED TO DELETE

FROM	TO	MEA
TIVERTON, OH VORTAC VIA W ALTER.	AKRON, OH VOR/DME VIA W ALTER.	3000
AKRON, OH VOR/DME VIA W ALTER.	YOUNGSTOWN, OH VORTAC VIA W ALTER.	3000

§95.6044 VOR FEDERAL AIRWAY 44

IS AMENDED TO READ IN PART

FROM	TO	MEA
MORGANTOWN, WV VORTAC *4100 - MOCA	MARTINSBURG, WV VORTAC	*5000
DATED, MD FIX *1900 - MOCA	BALTIMORE, MD VORTAC	*2100
KENTON, DE VORTAC *1100 - MOCA	ATLANTIC CITY, NJ VORTAC	*1800

§95.6045 VOR FEDERAL AIRWAY 45

IS AMENDED TO READ IN PART

FROM	TO	MEA
BLUEFIELD, WV VORTAC *5000 - MOCA	CHARLESTON, WV VORTAC	*6000
VARYS, OH FIX *2300 - MOCA	WATERVILLE, OH VORTAC	*4000

§95.6047 VOR FEDERAL AIRWAY 47

IS AMENDED TO DELETE

FROM	TO	MEA
ROSEWOOD, OH VORTAC VIA W ALTER.	BUTYN, OH FIX VIA W ALTER.	3000
BUTYN, OH FIX VIA W ALTER.	FINDLAY, OH VORTAC VIA W ALTER.	2800

§95.6050 VOR FEDERAL AIRWAY 50

IS AMENDED TO DELETE

FROM	TO	MEA
INDIANAPOLIS, IN VORTAC VIA N ALTER.	MUNCIE, IN VOR VIA N ALTER.	2900
MUNCIE, IN VOR VIA N ALTER.	DAYTON, OH VORTAC VIA N ALTER.	2800

§95.6051 VOR FEDERAL AIRWAY 51

IS AMENDED TO DELETE

FROM	TO	MEA
BISCAYNE BAY, FL VORTAC VIA E ALTER.	FORT LAUDERDALE, FL VOR/DME VIA E ALTER.	2000
FORT LAUDERDALE, FL VOR/DME VIA E ALTER.	ARKES, FL FIX VIA E ALTER.	2000
ARKES, FL FIX VIA E ALTER.	PAHOKEE, FL VORTAC VIA E ALTER.	1500

§95.6052 VOR FEDERAL AIRWAY 52

FROM	TO	MEA

§95.6052 VOR FEDERAL AIRWAY 52—Continued

IS AMENDED TO READ IN PART

TROY, IL VORTAC	CRATS, IL FIX	2600

§95.6055 VOR FEDERAL AIRWAY 55

IS AMENDED TO READ IN PART

BOOKS, OH FIX	FORT WAYNE, IN VORTAC	2600

§95.6058 VOR FEDERAL AIRWAY 58

IS AMENDED TO READ IN PART

EARED, PA FIX	PHILIPSBURG, PA VORTAC	*6000
*4000 - MOCA		
LAKE HENRY, PA VORTAC	KINGSTON, NY VORTAC	*4000
*3000 - MOCA		
HARTFORD, CT VORTAC	SALEM, CT FIX	*2600
*1900 - MOCA		
SALEM, CT FIX	*WHACH, CT FIX	**2300
*3000 - MRA		
**1500 - MOCA		

§95.6059 VOR FEDERAL AIRWAY 59

IS AMENDED TO READ IN PART

BECKLEY, WV VORTAC	*ITALY, WV FIX	**5000
*4000 - MRA		
**4300 - MOCA		

§95.6063 VOR FEDERAL AIRWAY 63

IS AMENDED TO READ IN PART

WAUSAU, WI VORTAC	RHINELANDER, WI VORTAC	3600

§95.6072 VOR FEDERAL AIRWAY 72

IS AMENDED TO READ IN PART

CENTRALIA, IL VORTAC	BIBLE GROVE, IL VORTAC	2600
EXALL, PA FIX	ELMIRA, NY VORTAC	*4000
*3400 - MOCA		
ALBANY, NY VORTAC	CAMBRIDGE, NY VORTAC	*4000
*3000 - MOCA		
CAMBRIDGE, NY VORTAC	*JAMMA, VT FIX	**6000
*5000 - MCA JAMMA FIX, W BND		
**5400 - MOCA		

§95.6073 VOR FEDERAL AIRWAY 73

FROM	TO	MEA

§95.6073 VOR FEDERAL AIRWAY 73—Continued

IS AMENDED TO READ IN PART

WICHITA, KS VORTAC	HUTCHINSON, KS VORTAC	3500

§95.6077 VOR FEDERAL AIRWAY 77

IS AMENDED TO READ IN PART

PIONEER, OK VORTAC	WICHITA, KS VORTAC	3500
WICHITA, KS VORTAC	ZANIE, KS FIX	3500

§95.6090 VOR FEDERAL AIRWAY 90

IS AMENDED TO READ IN PART

LITCHFIELD, MI VORTAC	U.S. CANADIAN BORDER	3000

§95.6091 VOR FEDERAL AIRWAY 91

IS AMENDED TO READ IN PART

CALVERTON, NY VORTAC	SEAMO, CT FIX	*2300
*1500 - MOCA		
GROUP, NY FIX	ALBANY, NY VORTAC	*2300
*1700 - MOCA		
WEIGH, VT FIX	BURLINGTON, VT VORTAC	3000
PLATTSBURGH, NY VORTAC	U.S. CANADIAN BORDER	*2500
*1500 - MOCA		

§95.6093 VOR FEDERAL AIRWAY 93

IS AMENDED TO READ IN PART

JARET, MD FIX	LANCASTER, PA VORTAC	*3000
*2000 - MOCA		
LANCASTER, PA VORTAC	HAILS, PA FIX	*3400
*2500 - MOCA		
HAILS, PA FIX	FRIEBE, PA FIX	*4000
*3000 - MOCA		
FRIEBE, PA FIX	WILKES-BARRE, PA VORTAC	4000
CHESTER, MA VORTAC	KEENE, NH VORTAC	3500
CONCORD, NH VORTAC	KENNEBUNK, ME VORTAC	*3000
*2400 - MOCA		
KENNEBUNK, ME VORTAC	BRUNSWICK (NAVY), ME VORTAC	*3000
*1600 - MOCA		
BRUNSWICK (NAVY), ME VORTAC	RAZER, ME FIX	*3000
*1600 - MOCA		
BANGOR, ME VORTAC	PRINCETON, ME-VOR/DME	3000

§95.6097 VOR FEDERAL AIRWAY 97

IS AMENDED TO READ IN PART

MIAMI, FL VORTAC	HAMME, FL FIX	*4000
*1300 - MOCA		
HAMME, FL FIX	WINCO, FL FIX	*2000
*1200 - MOCA		

FROM	TO	MEA

§95.6099 VOR FEDERAL AIRWAY 99

IS AMENDED TO READ IN PART

BRIDGEPORT, CT VOR	WALLI, CT FIX	*2600
*2000 - MOCA		

§95.6103 VOR FEDERAL AIRWAY 103

IS ADDED TO READ

GREENSBORO, NC VORTAC	MAYOS, NC FIX	2500
MAYOS, NC FIX	HENBY, VA FIX	*4000
*3500 - MOCA		
HENBY, VA FIX	TABER, VA FIX	*5000
*4400 - MOCA		
TABER, VA FIX	ROANOKE, VA VORTAC	5600
ROANOKE, VA VORTAC	COVEY, VA FIX	5300
COVEY, VA FIX	*WATTS, VA FIX	5500
*6000 - MRA		
WATTS, VA FIX	VELLI, WV FIX	7000
VELLI, WV FIX	ELKINS, WV VORTAC	*7000
*6400 - MOCA		
ELKINS, WV VORTAC	CLARKSBURG, WV VOR	*5000
*4400 - MOCA		
CLARKSBURG, WV VOR	BURGS, WV FIX	3700
BURGS, WV FIX	BELLAIRE, OH VORTAC	3400
BELLAIRE, OH VORTAC	ATWOO, OH FIX	*6000
*3000 - MOCA		
ATWOO, OH FIX	AKRON, OH VOR/DME	3000
AKRON, OH VOR/DME	CRIBS, OH FIX	3000
CRIBS, OH FIX	U.S. CANADIAN BORDER	*2500
*1700 - MOCA		
U.S. CANADIAN BORDER	SALEM, MI VORTAC	*2800
*2200 - MOCA		
SALEM, MI VORTAC	CHEMS, MI FIX	2800
CHEMS, MI FIX	LANSING, MI VORTAC	2900

§95.6104 VOR FEDERAL AIRWAY 104

IS AMENDED TO READ IN PART

MASSENA, NY VORTAC	MALAE, NY FIX	*3500
*2600 - MOCA		
MONTPELIER, VT VOR	BERLIN, NH VOR/DME	*7000
*5600 - MOCA		
BERLIN, NH VOR/DME	ANDYN, ME FIX	*6500
*5300 - MOCA		
ANDYN, ME FIX	BANGOR, ME VORTAC	*4000
*2800 - MOCA		

§95.6106 VOR FEDERAL AIRWAY 106

IS AMENDED TO READ IN PART

JOHNSTOWN, PA VORTAC	HUDON, PA FIX	*5000
*4300 - MOCA		
HUDON, PA FIX	RASHE, PA FIX	*5500
*3900 - MOCA		
MANCHESTER, NH VORTAC	KENNEBUNK, ME VORTAC	*2600
*2100 - MOCA		

FROM	TO	MEA

§95.6109 VOR FEDERAL AIRWAY 109

IS AMENDED TO READ IN PART

VOLTA, CA FIX	STOCKTON, CA VORTAC	3000
ALTAIM, CA FIX	*SALAD, CA FIX	5000
*4700 - MCA SALAD FIX, NE BND		

§95.6111 VOR FEDERAL AIRWAY 111

IS AMENDED TO READ IN PART

PATTY, CA FIX	MODESTO, CA VOR/DME	*3000
*1500 - MOCA		

§95.6113 VOR FEDERAL AIRWAY 113

IS AMENDED TO READ IN PART

VOLTA, CA FIX	STOCKTON, CA VORTAC	3000
SPOOK, CA FIX	STALK, NV FIX	13000
ROBUD, NV FIX	SOD HOUSE, NV VORTAC	10000

§95.6115 VOR FEDERAL AIRWAY 115

IS AMENDED TO READ IN PART

WHIRL, WV FIX	CHARLESTON, WV VORTAC	*4000
*3000 - MOCA		
TIDIOUTE, PA VORTAC	JAMESTOWN, NY VOR/DME	*4000
*3400 - MOCA		
JAMESTOWN, NY VOR/DME	LANGS, NY FIX	3700

§95.6116 VOR FEDERAL AIRWAY 116

IS AMENDED TO READ IN PART

BLURS, OH FIX	ERIE, PA VORTAC	*2300
*1800 - MOCA		

§95.6119 VOR FEDERAL AIRWAY 119

IS AMENDED TO READ IN PART

BURGS, WV FIX	GALLS, PA FIX	*3700
*3100 - MOCA		
OTOWN, PA FIX	INDIAN HEAD, PA VORTAC	*5000
*4400 - MOCA		
WELLSVILLE, NY VORTAC	BURST, NY FIX	*4500
*3800 - MOCA		

§95.6128 VOR FEDERAL AIRWAY 128

IS AMENDED TO READ IN PART

SWIFT, WV FIX	BITES, WV FIX	*5000
*4300 - MOCA		
BITES, WV FIX	*HAWKI, WV FIX	**5000
*8000 - MRA		
**5200 - MOCA		
HAWKI, WV FIX	LURAY, VA FIX	*7000
*6400 - MOCA		

FROM	TO	MEA

§95.6130 VOR FEDERAL AIRWAY 130
IS AMENDED TO READ IN PART

ALBANY, NY VORTAC *6000 - MRA *6000 - MCA CANAN FIX, NW BND **3200 - MOCA	*CANAN, NY FIX	**6000
WOLDS, MA FIX *3300 - MOCA	COBOL, CT FIX	*4000
NORWICH, CT VORTAC *1800 - MOCA	WACKY, RI FIX	*2300
WACKY, RI FIX *1400 - MOCA	FALMA, MA FIX	*2100
FALMA, MA FIX *1300 - MOCA	MARTHAS VINEYARD, MA VOR	*2000

§95.6132 VOR FEDERAL AIRWAY 132
IS AMENDED TO READ IN PART

DISKS, KS FIX *5000 - MRA **3300 - MOCA	*STEAL, KS FIX	**5000

§95.6133 VOR FEDERAL AIRWAY 133
IS AMENDED TO READ IN PART

STOVE, VA FIX *7200 - MRA **6200 - MOCA	*KENYA, WV FIX	**7200

§95.6139 VOR FEDERAL AIRWAY 139
IS AMENDED TO READ IN PART

SUNNS, NC FIX	NORFOLK, VA VORTAC	2000
NORFOLK, VA VORTAC *1200 - MOCA	CAPE CHARLES, VA VORTAC	*2000
CAPE CHARLES, VA VORTAC *1500 - MOCA	SNOW HILL, MD VORTAC	*2000
CHUMP, NY FIX *3000 - MRA **1200 - MOCA	*WHACK, CT FIX	**4000
WACKY, RI FIX *1700 - MOCA	PROVIDENCE, RI VORTAC	*2300
WHITMAN, MA VOR/DME *2500 - MCA TONNI FIX, N BND **1400 - MOCA	*TONNI, MA FIX	**2000
TONNI, MA FIX *1300 - MOCA	SEEDY, NH FIX	*2500
SEEDY, NH FIX *1800 - MOCA	KENNEBUNK, ME VORTAC	*2500

§95.6140 VOR FEDERAL AIRWAY 140
IS AMENDED TO READ IN PART

STACY, VA FIX *7200 - MRA **4600 - MOCA	*KENYA, WV FIX	**5600

§95.6140 VOR FEDERAL AIRWAY 140—Continued

KENYA, WV FIX	BLUEFIELD, WV VORTAC	5600

§95.6141 VOR FEDERAL AIRWAY 141
IS AMENDED TO READ IN PART

NANTUCKET, MA VORTAC	CRACD, MA FIX	1800
HYANNIS, MA VORTAC *1500 - MOCA	BOSTON, MA VORTAC	*2000
MANCHESTER, NH VORTAC *2000 - MOCA	CONCORD, NH VORTAC	*2900
CONCORD, NH VORTAC *4400 - MOCA	LEBANON, NH VOR/DME	*5000
RUCKY, VT FIX	GREEK, VT FIX	6000
RIGID, NY FIX *5300 - MOCA	BUGSY, NY FIX	*6000
BUGSY, NY FIX *4000 - MOCA	MASSENA, NY VORTAC	*5000

§95.6143 VOR FEDERAL AIRWAY 143
IS AMENDED TO READ IN PART

ELLON, VA FIX *6000 - MCA CLYFF FIX, N BND **4400 - MOCA	*CLYFF, VA FIX	**5000
DELRO, PA FIX	LANCASTER, PA VORTAC	3000

§95.6146 VOR FEDERAL AIRWAY 146
IS AMENDED TO READ IN PART

PUTNAM, CT VORTAC	FOSTY, RI FIX	2500
FOSTY, RI FIX	PROVIDENCE, RI VORTAC	2400
MARTHAS VINEYARD, MA VOR	NANTUCKET, MA VORTAC	2000

§95.6148 VOR FEDERAL AIRWAY 148
IS AMENDED TO READ IN PART

HAYWARD, WI VOR/DME *3100 - MOCA	IRONWOOD, MI VORTAC	*5000

§95.6157 VOR FEDERAL AIRWAY 157
IS AMENDED TO READ IN PART

MIAMI, FL VORTAC *1300 - MOCA	HAMME, FL FIX	*4000
HAMME, FL FIX *1200 - MOCA	WINCO, FL FIX	*2000

IS AMENDED TO DELETE

FAMIN, FL FIX VIA W ALTER *3100 - MRA **1500 - MOCA	*VEGIE, FL FIX VIA W ALTER	**5000

§95.6157 VOR FEDERAL AIRWAY 157—Continued

VEGIE, FL FIX VIA W ALTER *1500 - MOCA	SERPA, FL FIX VIA W ALTER	*3100
SERPA, FL FIX VIA W ALTER *1200 - MOCA	SWAGS, FL FIX VIA W ALTER	*2000
SWAGS, FL FIX VIA W ALTER *1300 - MOCA	LA BELLE, FL VORTAC VIA W ALTER	*2000
LA BELLE, FL VORTAC VIA E ALTER	LAKELAND, FL VORTAC VIA E ALTER	2000

§95.6159 VOR FEDERAL AIRWAY 159
IS AMENDED TO READ IN PART

FORT LAUDERDALE, FL VOR/DME *1400 - MOCA	ARKES, FL FIX	*2000
ARKES, FL FIX *1300 - MOCA	NITNY, FL FIX	*3000
NITNY, FL FIX	VERO BEACH, FL VORTAC	2000

§95.6167 VOR FEDERAL AIRWAY 167
IS AMENDED TO READ IN PART

HANCOCK, NY VORTAC *3000 - MOCA	KINGSTON, NY VORTAC	*4000

§95.6181 VOR FEDERAL AIRWAY 181
IS AMENDED TO READ IN PART

KENAR, NE FIX	NORFOLK, NE VOR	3500
NORFOLK, NE VOR	YANKTON, SD VOR	3700

§95.6192 VOR FEDERAL AIRWAY 192
IS AMENDED BY ADDING

INDIANAPOLIS, IN VORTAC	MUNCIE, IN VOR	2900
MUNCIE, IN VOR	DAYTON, OH VORTAC	2800

§95.6214 VOR FEDERAL AIRWAY 214
IS AMENDED TO READ IN PART

GALLS, PA FIX *2800 - MOCA	OTOWN, PA FIX	*3700
OTOWN, PA FIX *4400 - MOCA	INDIAN HEAD, PA VORTAC	*5000

§95.6228 VOR FEDERAL AIRWAY 228
IS AMENDED TO DELETE

NORTHBROOK, IL VORTAC VIA N ALTER *1900 - MOCA	MUSKY, MI FIX VIA N ALTER	*2500
MUSKY, MI FIX VIA N ALTER	SOUTH BEND, IN VORTAC VIA N ALTER	2600

§95.6234 VOR FEDERAL AIRWAY 234
IS AMENDED TO READ IN PART

BYWAY, KS FIX *3600 - MOCA	GABIE, KS FIX	*4300

§95.6244 VOR FEDERAL AIRWAY 244
IS AMENDED TO READ IN PART

OAKLAND, CA VORTAC *4700 - MCA SALAD FIX, NE BND	*SALAD, CA FIX	4000

§95.6261 VOR FEDERAL AIRWAY 261
IS AMENDED TO READ IN PART

WICHITA, KS VORTAC *3500 - MOCA	CHARI, KS FIX	*5000

§95.6267 VOR FEDERAL AIRWAY 267
IS AMENDED TO READ IN PART

PAHOKEE, FL VORTAC *1400 - MOCA	BAIRN, FL FIX	*2000

IS AMENDED TO DELETE

BISCAYNE BAY, FL VORTAC VIA E ALTER *1600 - MOCA	GREEMN, FL FIX VIA E ALTER	*5000
GREEMN, FL FIX VIA E ALTER	JENKS, FL FIX VIA E ALTER	2000
JENKS, FL FIX VIA E ALTER	PALM BEACH, FL VORTAC VIA E ALTER	2500
PALM BEACH, FL VORTAC VIA E ALTER	SHEDS, FL FIX VIA E ALTER	2000
SHEDS, FL FIX VIA E ALTER *1500 - MOCA	BAIRN, FL FIX VIA E ALTER	*6000
BAIRN, FL FIX VIA E ALTER	ORLANDO, FL VORTAC VIA E ALTER	2000

§95.6268 VOR FEDERAL AIRWAY 268
IS AMENDED TO READ IN PART

KENTON, DE VORTAC *1300 - MOCA	LEEAH, NJ FIX	*1800

§95.6295 VOR FEDERAL AIRWAY 295

FROM	TO	MEA

§95.6295 VOR FEDERAL AIRWAY 295—Continued

IS AMENDED TO READ IN PART

ORLANDO, FL VORTAC	OCALA, FL VORTAC	2000

§95.6300 VOR FEDERAL AIRWAY 300

IS AMENDED TO READ IN PART

THUNDER BAY, CANADA VORTAC *2400 - MOCA	SRADE, MI FIX	#*9000

#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.

§95.6308 VOR FEDERAL AIRWAY 308

IS AMENDED TO READ IN PART

SEA ISLE, NJ VORTAC *2000 - MOCA	BRIGG, NJ FIX	*2500

§95.6443 VOR FEDERAL AIRWAY 443

IS AMENDED TO DELETE

TIVERTON, OH VORTAC VIA E ALTER.	DRYER, OH VORTAC VIA E ALTER.	3000

§95.6446 VOR FEDERAL AIRWAY 446

IS AMENDED TO READ IN PART

TROY, IL VORTAC	SAMSVILLE, IL VORTAC	2600

§95.6451 VOR FEDERAL AIRWAY 451

IS AMENDED TO READ IN PART

TONNI, MA FIX *1300 - MOCA	SEEDY, NH FIX	*2500

§95.6463 VOR FEDERAL AIRWAY 463

IS AMENDED TO READ IN PART

JUDAA, GA FIX *5000 - MRA	*RWSON, GA FIX	5000

§95.6487 VOR FEDERAL AIRWAY 487

IS AMENDED TO READ IN PART

WEIGH, VT FIX	BURLINGTON, VT VORTAC	3000

§95.6489 VOR FEDERAL AIRWAY 489

IS AMENDED TO READ IN PART

GROUP, NY FIX *1700 - MOCA	ALBANY, NY VORTAC	*2300

FROM	TO	MEA

§95.6492 VOR FEDERAL AIRWAY 492

IS AMENDED TO READ IN PART

LA BELLE, FL VORTAC *1400 - MOCA	PAHOKEE, FL VORTAC	*2000
PAHOKEE, FL VORTAC *1400 - MOCA	PALM BEACH, FL VORTAC	*2000

IS AMENDED TO DELETE

LA BELLE, FL VORTAC VIA N ALTER. *3000 - MRA **1300 - MOCA	*HOMEY, FL FIX VIA N ALTER.	**2000
HOMEY, FL FIX VIA N ALTER. *1100 - MOCA	SHERM, FL FIX VIA N ALTER.	*3000
SHERM, FL FIX VIA N ALTER.	PALM BEACH, FL VORTAC VIA N ALTER.	1600

§95.6502 VOR FEDERAL AIRWAY 502

IS AMENDED TO READ IN PART

DISKS, KS FIX *5000 - MRA **3300 - MOCA	*STEAL, KS FIX	**5000

§95.6503 VOR FEDERAL AIRWAY 503

IS ADDED TO READ

CEDAR RAPIDS, IA VORTAC *3600 - MOCA	ROCHESTER, MN VOR/DME	*4500

§95.6522 VOR FEDERAL AIRWAY 522

IS AMENDED BY ADDING

DRYER, OH VORTAC	FAILS, OH FIX	2500
FAILS, OH FIX	ERIE, PA VORTAC	2700
ERIE, PA VORTAC	DUNKIRK, NY VORTAC	3000

§95.6523 VOR FEDERAL AIRWAY 523

IS ADDED TO READ

APPLETON, OH VORTAC	TIVERTON, OH VORTAC	3000
TIVERTON, OH VORTAC	AKRON, OH VOR/DME	3000
AKRON, OH VOR/DME	YOUNGSTOWN, OH VORTAC	3000
YOUNGSTOWN, OH VORTAC	ERIE, PA VORTAC	3000

FROM	TO	MEA

§95.6525 VOR FEDERAL AIRWAY 525

IS ADDED TO READ

APPLETON, OH VORTAC	TIVERTON, OH VORTAC	3000
TIVERTON, OH VORTAC	DRYER, OH VORTAC	3000

§95.6526 VOR FEDERAL AIRWAY 526

IS ADDED TO READ

NORTHBROOK, IL VORTAC *1900 - MOCA	MUSKY, MI FIX	*2500
WATERVILLE, OH VORTAC	DRYER, OH VORTAC	2700
DRYER, OH VORTAC	YOUNGSTOWN, OH VORTAC	3000
YOUNGSTOWN, OH VORTAC	MERCY, PA FIX	3000
MERCY, PA FIX	CLARION, PA VORTAC	3600

§95.6529 VOR FEDERAL AIRWAY 529

IS ADDED TO READ

BISCAYNE BAY, FL VORTAC	FAMIN, FL FIX	2000
FAMIN, FL FIX *1500 - MOCA	SWAGS, FL FIX	*5000
SWAGS, FL FIX *1400 - MOCA	LA BELLE, FL VORTAC	*2000

FROM	TO	MEA

§95.6531 VOR FEDERAL AIRWAY 531

IS ADDED TO READ

PALM BEACH, FL VORTAC	SHEDS, FL FIX	2000
SHEDS, FL FIX *1500 - MOCA	BAIRN, FL FIX	*6000
BAIRN, FL FIX	ORLANDO, FL VORTAC	2000

§95.6532 VOR FEDERAL AIRWAY 532

IS AMENDED TO READ IN PART

PIONEER, OK VORTAC	WICHITA, KS VORTAC	3500
WICHITA, KS VORTAC	WAIVE, KS FIX	3500

FROM	TO	MEA	MAA
§95.7012 JET ROUTE NO. 12			
	IS AMENDED BY ADDING		
SEATTLE, WA VORTAC	EPHRATA, WA VORTAC	18000	45000
EPHRATA, WA VORTAC	MC CALL, ID VORTAC	18000	45000
MC CALL, ID VORTAC	TWIN FALLS, ID VORTAC	18000	45000
TWIN FALLS, ID VORTAC	SALT LAKE CITY, UT VORTAC	18000	45000
§95.7055 JET ROUTE NO. 55			
	IS AMENDED BY ADDING		
MIAMI, FL VORTAC	INPIN, FL FIX	18000	45000
INPIN, FL FIX	JACKSONVILLE, FL VORTAC	24000	45000
§95.7075 JET ROUTE NO. 75			
	IS AMENDED TO READ IN PART		
FORT MYERS, FL VORTAC	TAYLOR, FL VORTAC	18000	45000
§95.7085 JET ROUTE NO. 85			
	IS AMENDED TO READ IN PART		
MIAMI, FL VORTAC	GAINESVILLE, FL VORTAC	18000	45000
GAINESVILLE, FL VORTAC	TAYLOR, FL VORTAC	18000	45000
§95.7143 JET ROUTE NO. 143			
	IS AMENDED BY ADDING		
POINT REYES, CA VORTAC	ROSEBURG, OR VOR	#26000	45000
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.			
ROSEBURG, OR VOR	EUGENE, OR VORTAC	18000	45000
§95.7511 JET ROUTE NO. 511			
	IS AMENDED TO READ IN PART		
ENCOR, AK FIX	DILLINGHAM, AK VORTAC	18000	45000
§95.7562 JET ROUTE NO. 562			
	IS ADDED TO READ		
DICKINSON, ND VORTAC	BRANDON, CANADA VORTAC	18000	45000

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	AIRWAY SEGMENT TO	CHANGEOVER POINTS DISTANCE	CHANGEOVER POINTS FROM
V-39			
	IS AMENDED TO READ IN PART		
SOUTH BOSTON, VA VORTAC	GORDONSVILLE, VA VORTAC	48	SOUTH BOSTON
V-111			
	IS AMENDED BY ADDING		
BIG SUR, CA VORTAC	SALINAS, CA VORTAC	21	BIG SUR
V-128			
	IS AMENDED BY ADDING		
YORK, KY VORTAC	CHARLESTON, WV VORTAC	29	YORK
V-143			
	IS AMENDED BY ADDING		
LANCASTER, PA VORTAC	POTTSTOWN, PA VORTAC	15	LANCASTER

[FR Doc. 83-9534 Filed 4-13-83; 8:45 am]
BILLING CODE 4910-13-C

CIVIL AERONAUTICS BOARD

14 CFR Part 389

Waiver of Filing—Fee Requirements

AGENCY: Civil Aeronautics Board.

ACTION: Waiver of filing—fee requirements.

SUMMARY: Following requests on behalf of certain foreign carriers, the Director, Bureau of International Aviation, acting under delegated authority, has waived the requirements of Part 389 of the Board's Organization Regulations to the extent necessary to relieve the carriers of Singapore (designated airline(s) only; by letter dated 3/17/83), Belgium (by letter dated 3/28/83), Chile (by letter dated 3/30/83), New Zealand (by letter dated 3/30/83), Thailand (by letter dated 4/5/83), Argentina (by letter dated 4/7/83), and Spain (by letter dated 4/8/83), from paying the filing fees set forth in § 389.25. Each action was effective immediately on the date of the letter and the filing of a petition for review will not alter its effectiveness.

FOR FURTHER INFORMATION CONTACT: Allen Brown, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5134.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-9949 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 8899]

Sterling Drug, Inc., et al.; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects a Commission document previously published in the **Federal Register** on Wednesday, April 6, 1983. Chairman James C. Miller III's Separate Statement was inadvertently omitted.

DATE: The correction is effective upon publication.

FOR FURTHER INFORMATION CONTACT: FTC/PC, Connie Vecellio, Washington, D.C. 20580. (202) 376-3465.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-9016, appearing in the **Federal Register** issue for Wednesday, April 6, 1983, 48 FR 14891, the Separate Statement of Chairman James C. Miller III was omitted. The Separate Statement reads as follows:

Separate Statement of Chairman James C. Miller III, in the Matter of Sterling Drug, Inc.

I concur in the Commission's unanimous decision to modify the existing order in this matter and require a reasonable basis for Sterling's advertising claims for Lysol. Sterling will now be permitted to make truthful claims, subject to proper substantiation, that environmental surfaces can play a significant role in transmitting colds and that using a household disinfectant may reduce the incidence or prevent the spread of colds.

Stering has presented to the Commission a significant amount of new scientific evidence on how cold viruses are spread. This evidence represents a change in the facts underlying the original order and forms the justification for the current modification. In 1974, when the Commission issued the original order, the prevailing view in the scientific community was that airborne germs and viruses were the primary cause of colds. Accordingly, the Commission prohibited any claims that environmental surfaces play a significant role in transmitting colds, and that using household disinfectants such as Lysol can help prevent colds.

Sterling's detailed petition indicates that, contrary to the Commission's premise in bringing this case, there is a substantial body of reputable scientific evidence indicating that environmental surfaces play a significant role in spreading colds. Indeed, at least two of the three experts on whom the Commission relied in bringing the case now support Sterling's position. Morever, no one disputes that Lysol effectively cleans environmental surfaces. Although Sterling's evidence does not show, nor have they claimed, that spraying Lysol absolutely prevents colds, this should not preclude Sterling from making properly qualified, substantiated efficacy claims.

In moving from a total prohibition of certain claims to allowing those for which there is a reasonable basis, I believe the Commission is recognizing that Sterling currently has a reasonable basis for making some advertising claims concerning the product's effectiveness. If a majority of the Commission did not agree with this, it would have been more appropriate to deny the order modification. Of course, the Commission has not seen any specific advertising claims and we will scrutinize any Sterling claim to be certain it is substantiated.

As with most medical and many other types of claims, absolute certainty is not feasible. The proper role of the Federal Trade Commission is not to ban all claims unless they can be shown to be true beyond a shadow of a doubt,[1] but to weigh the costs and benefits of allowing or banning the dissemination of information about which some uncertainty may exist. Here, if the Commission allows claims for which there is a reasonable basis and they are later determined to be false, consumers are injured only to the extent of the cost of their Lysol purchases.[2] If the Commission bans the claims and they turn out to be *true*, consumers will be prevented from learning of an effective method to reduce the incidence and spread of colds, America's most prevalent disease.

Sterling has made a strong showing that its theory of how colds are spread is valid, and that the Commission's theory in bringing this case is not. Sterling has also provided evidence that Lysol kills cold viruses. Therefore, Sterling should be permitted to make adequately substantiated claims at least on these two points. Prohibiting such claims, as Commissioner Pertschuk apparently prefers (although he supported the change) would not strengthen the advertrising susbstantiation doctrine. It would instead deprive consumers of valuable, truthful information.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-9890 Filed 4-13-83; 8:45 am]

BILLING CODE 6750-01-M

[1] As the Commission indicated in *Pfizer*, 81 F.T.C. 23, 64 (1972), the amount of testing necessary to support a claim depends on the circumstances, including the type of claims, the cost of obtaining the supporting evidence, and the possible consequences of a false claim. Particularly given Commissioner Pertschuk's description of the testing procedure here, obtaining empirical evidence of absolute proof of efficacy would be far more costly than the attendant risks and benefits warrant.

[2] Because the product has other values, the expenditures will not be totally wasted for many consumers.

16 CFR Part 13

[Docket No. 8792]

Golden Tabs Pharmaceutical Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on March 16, 1970 (35 FR 5809), by allowing respondent to disclose, clearly and conspicuously any place in the advertisement, that there are conditions and obligations attendant upon acceptance of free or nominally priced offers. The modified order also reflects the company's new name and deletes from the order the name of the company's founder, Michael Posen.

DATES: Final Order issued March 16, 1970. Modifying Order issued March 17, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/PC, Robert Barton, Washington, D.C. 20580. (202) 376-2894.

SUPPLEMENTARY INFORMATION: In the Matter of Golden Tabs Pharmaceutical Co., Inc., a corporation. Codification

appearing at 35 FR 5809 remains unchanged.

List of Subjects in 16 CFR Part 13

Advertising, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the matter of Golden Tabs Pharmaceutical Co., Inc., a corporation; Docket No. 8792; Order Reopening the Proceeding and Modifying Cease and Desist Order.

On November 17, 1982 Golden Tabs Pharmaceutical Co., Inc., respondent in the above-captioned matter, filed a petition pursuant to Rule 2.51 of the Commission's Rules of Practice to reopen the proceeding and modify the order entered therein.

The order, which was entered in 1970, covers "Golden 50 Tabulets" or any food, drug, device or cosmetic. The complaint, which was issued on July 17, 1969, alleged, among other things, that respondent had represented in advertisements that Golden 50 Tabulets would be sent free to persons responding to respondents' advertisements and that persons answering said advertisements will be under no obligation to purchase additionl supplies of respondents' products. In truth and in fact, the Hearing Examiner found that the 30 day supply of respondents' product was not free for the reason that the offer was an inseparable part of a plan under which respondents, after the receipt of the 30 day supply by those who accepted the offer, shipped additional monthly supplies of the product and attempted to collect the price for these shipments. Furthermore, the Examiner found that persons answering the ads are under an obligation to purchase additional supplies or to notify respondents to cancel further shipments. After sending the 30 day supply, respondents shipped additional supplies each month, mailed statements requesting payment and threatened visits by company representatives in an attempt to collect payment. The Examiner also found that in many cases even if persons notified respondents that they did not wish additional supplies to be sent, respondents continued to ship supplies of said product to those persons and attempted to collect the price.

The Examiner issued an order, which, among other things, prohibited respondent in paragraph 1(b) of the order from representing that "any product is offered free or under any other terms when the offer is used as a means of enrolling those who accept the offer in a plan whereby additional supplies of the product are shipped at an additional charge unless all of the conditions of the plan are disclosed clearly and conspicuously and within close proximity to the 'free' or other offer." The respondents did not appeal from the initial decision and the Commission thereafter adopted the decision and order.

Petitioner now seeks to modify one provision of that order, by adding a provision to paragraph 1(b) of the order which would permit respondent to have the option of clearly and conspicuously disclosing, when the free or other offer is made, that there are obligations attendant upon acceptance of the free or nominally priced offer and then clearly and conspicuously disclosing the complete terms of the offer elsewhere. Thus, the alternative language would not require that respondent disclose all the conditions "within close proximity to the free or other offer" as is now mandated.

While the Commission supports petitioner's proposed revisions to the order, the Commission has, without objection from petitioner, added a proviso to that portion of paragraph 1(b)(2) which would permit respondent to disclose the complete terms of the offer elsewhere in the advertisement. As revised herein, where respondent exercises this option and also includes in the advertisement a coupon, signature space or other means by which a consumer is intended to accept the offer, it is required to disclose the complete terms of the offer on or in close proximity to the coupon or other space provided.

The alternative language, as revised, should be sufficient to ensure that consumers are aware of their obligations in accepting the free or other offer. Not only would respondent be required by the modified order to disclose clearly and conspicuously and within close proximity to the offer that there are other conditions that a consumer assumes upon accepting the offer, but the respondent must clearly and conspicuously set forth on a coupon or other offer acceptance form included in the advertisement or, if no such form is provided, elsewhere in the advertisement the complete details, conditions, and obligations. Thus, assuming that the proper language is used, a consumer can be expected to be aware of the obligations attendant upon acceptance of the offer.

In its petition at page 8, respondents suggests that the modified order would be satisfied by placing, clearly, conspicuously, and within close proximity to the offer, such terms as "with membership", "with club membership", "when you join", "when you rejoin", "see details of plan in enrollment coupon", "see details of offer below", "see details inside", and other similar terms which clearly convey to the consumer a further obligation upon acceptance of the offer. Respondent should be advised that, in granting the petition, the Commission does not agree that all of the above terms would constitute satisfactory compliance with the modified order. In particular, in the Commission's view, the terms "see details inside" or "see details of offer below," even if placed "clearly, conspicuously and in close proximity" to the offer, are too imprecise to adequately inform consumers that there are further *obligations* attendant upon acceptance of the offer.

With the above noted order revision and compliance caveat, the Commission has decided to grant the petition. Moreover, having been informed by staff that the petitioner has no objection, the Commission also has made two other changes in the order. Because respondent Michael Posen has died, the Commission has deleted his name from the order, and it has changed the name of the corporate respondent, from Golden Fifty Pharmaceutical Co., Inc. to Golden Tabs Pharmaceutical Co., Inc.

It is therefore ordered that the proceeding is hereby reopened and the Decision and Order issued July 17, 1969, in Docket No. 8792 is hereby modified to read as follows:

Order

It is ordered, That respondent Golden Tabs Pharmaceutical Co., Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation designated "Golden 50 Tabulets," or any food, drug, device or cosmetic do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing the dissemination of, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which:

(a) Represents directly or by implication that respondent is a manufacturer of vitamin and/or mineral preparations or maintains laboratory facilities concened with the formulation, testing or performance of vitamin and/or mineral preparations.

(b) Represents directly or by implication that any product is offered free or under any other terms when the offer is used as a means of enrolling

those who accept the offer in a plan whereby additional supplies of the product are shipped at an additional charge unless all of the conditions of the plan are disclosed clearly and conspicuously and within close proximity to the "free" or other offer,

or, alternatively,

represents directly or by implication that any product is offered free or under any other terms when the offer is used as a means of enrolling those who accept the offer in a plan whereby additional supplies of the product are shipped at an additional charge unless (1) respondent discloses clearly, conspicuously, and within close proximity to the free or other offer that there is a further obligation upon the consumer upon acceptance of the offer, and (2) respondent also discloses clearly and conspicuously elsewhere in the advertisement the complete details, conditions, and obligations attendant upon acceptance of the offer, provided further that, if the advertisement includes a coupon, signature space, or other designated means by which the consumer is intended to accept the offer, respondent discloses clearly and conspicuously on or in close proximity to the coupon or other space provided for acceptance of the offer the complete details, conditions and obligations attendent upon acceptance of the offer, but such complete disclosure need not appear more than once in the advertisement, including the coupon.

(c) Represents directly or by implication that an offer is made without "further obligation," or with "no risk," or words of similar import denoting or implying the absence of any obligation on the part of the recipient of such offer when in fact there is an obligation incurred by the recipient.

(d) Represents directly or by implication that an offer is made to only a limited customer group or for only a limited period of time when no such limitations are imposed by respondents.

(e) Represents directly or by implication that such products are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which said guarantor will perform thereunder are clearly and conspicuously disclosed therewith.

(f) Represents directly or indirectly that any product or combination of products identified, described or specified, directly or by implication, is being offered for sale, as a "gift" or otherwise, unless such offer does contain the items as specified, described or otherwise identified.

(g) Represents directly or indirectly that any product or combination of products which are offered for sale, "free," as a "gift," or otherwise is or are of regular commercial size when such product or products are of "trial," "sample," or otherwise less than regular commercial size.

2. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondent's products in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations or misrepresentations prohibited by Paragraph 1 hereof.

It is further ordered, That respondent and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of "Golden 50 Tabulets" or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Shipping or sending any merchandise to any person without the prior authorization or prior consent of the person to whom such merchandise is sent and attempting, or causing to attempt, the collection of the price thereof.

2. Shipping or sending any merchandise to any person and attempting, or causing to attempt, the collection of the price thereof when a notification of refusal of such merchandise, or a notification of cancellation for any further shipments of merchandise, has been sent by such persons and received by respondent.

It is further ordered, That respondent notify the commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty (60) days after service of this modified order upon it, file with the commission a report in writing, signed by respondent, setting forth in detail the manner and form of its compliance with the order to cease and desist.

It is further ordered, That the foregoing modification shall become effective upon service of this Order.

Issued: March 17, 1983.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-0092 Filed 4-13-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1 and 4

[Docket No. RM81-15-000]

Revisions to Certain Regulations Governing Applications for Preliminary Permit and License for Water Power Projects

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing in part and denying rehearing in part.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order that grants in part and denies in part a petition for rehearing of a final rule that clarifies and streamlines the requirements for certain hydroelectric project applications.

For reasons detailed in the rehearing order, the Commission largely denies the petitioner's request for modification of the final rule. The Commission grants rehearing to clarify that: (1) the Commission will not change the date of acceptance of a permit application when a state or a municipality amends its preliminary permit application under § 4.33(g)(4) to make its plans as well adapted as plans of an applicant that is not a state or a municipality; (2) the Commission will not change the date of acceptance of a license application when a preliminary permittee amends its license application under § 4.33(h)(2) to make its plans as well adapted as plans of another applicant; and (3) a municipal charter may be acceptable evidence of municipal competence to engage in the electric power business.

EFFECTIVE DATE: The clarifications made in 18 CFR 4.35 and 4.81 will be effective May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph H. Long, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: In the matter of revisions to certain regulations governing applications for preliminary permit and license for water power projects; Docket No. RM81-15-000,

Order No. 183-A; order granting rehearing in part and denying rehearing in part.

Issued April 8, 1983.

I. Introduction

On October 29, 1981, the Federal Energy Regulatory Commission (Commission) isued a final rule revising regulations that govern applications for preliminary permits and licenses for water power projects under Part I of the Federal Power Act (Act).[1] On November 30, 1981, the law firm of Spiegel and McDiarmid (Spiegel) filed a timely petition for rehearing. On December 30, 1981, the Commission granted the Spiegel petition solely for purpose of further consideration.

II. Background

As noted in its preamble, the final rule is designed to expedite further the licensing of water power projects by clarifying and streamlining some Commission procedures by: (1) Automatically granting (with some exceptions) timely uncontested petitions to intervene in preliminary permit application proceedings [§§ 385.214(c)(2) and 4.31(h)]; (2) reminding applicants for a permit or a license to include as a co-applicant any entity having or intending to obtain and maintain any proprietary or other interest necessary to construct, operate, or maintain the water power project [§ 4.30(d)]; (3) eliminating, for certain kinds of water power projects at existing dams, notices of intent to submit competing preliminary permit applications and allowing 90 days for competitors to file [§ 4.33 (a) and (b)]; (4) deleting reference to the ability of respective applicants to carry out the proposed plans of development for those cases where a municipality or a state and a private entity compete for a preliminary permit or a license [§ 4.33(g) (3) and (4)]; (5) requiring a municipal applicant for a preliminary permit or a license to submit as part of its application appropriate evidence that it is legally competent under applicable local law to engage in the business of developing, transmitting, utilizing, or distributing power [§§ 4.33(i), 4.51(a)(5)(i) and 4.81(a)(4)]; and (6) adding a new provision to indicate that after an application for a preliminary permit or a license is filed with the Commission, the submittal of a amendment to that application that changes the status or identity of the applicant or materially amends the proposed plans of development will result in its treatment as a new application and a change in the date of its acceptance for filing to the date of the filing of the amendment [§ 4.35].

III. Issues on Rehearing

The petitioner raises a number of arguments on rehearing. Most of these arguments were considered by the Commission in promulgating the final rule, and the Commission believes that no purpose in served by further discussion of many of these issues. These include petitioner's contention, which is now moot, that there are administrative difficulties with the automatic intervention provisions,[2] the objection that the elimination of notices of intent to submit preliminary permit applications for certain water power projects will burden the Commission and competing applicants, and the objection to using "project" and not "project works" in § 4.33(a), which the Commission has previously addressed.[3] There remain a few issues that merit some additional clarification, including minor changes to the regulations.

A. Identity of Applicants with Rights in Proposed Projects [§ 4.30(d)]

Section 4.30(d) states that any entity "which has or intends to obtain, and will maintain, any proprietary right necessary to construct, operate, or maintain a water power project for which an application for a preliminary permit or license is filed, should be identified as an applicant in such documents."[4] The petitioner argues that this new provision provides that any owner of project-related land that the applicant expects to purchase or condemn should be listed as an applicant. The Commission finds this to be a misreading of § 4.30(d). That section provides that entities that have and would maintain any proprietary right in the project after it is licensed should be listed as applicants. An owner of any property that the applicant intends to obtain by purchase or condemnation clearly would not *maintain* any proprietary right necessary to construct, operate, or maintain that applicant's project and, therefore, should not be listed as an applicant under § 4.30(d).

Petitioner's recommendation that the Commission guard against hidden hybrid applications by requiring identification of all persons with property related to a proposed project and submittal of "copies of all proposed or executed contracts and agreements with any other entity relating to the control or use of any proposed project," is not adopted. There are questions about the usefulness of such a requirement, particularly in the case of preliminary permit applications. The Commission does not wish, in any event, to establish a filing requirement of the sort recommended by the petitioner at this late stage of this proceeding. This information is currently obtainable by the Commission in those few cases where it is needed.

B. Substantiation of Competence as a Municipality Under State Law [§§ 4.51(a)(5)(i) and 4.81(a)(4)]

In the final rule, §§ 4.51(a)(5)(i) and 4.81(a)(4) are amended to require a municipality to submit as part of its application evidence of competency under state law to develop, transmit, utilize or distribute power. Petitioner believes these provisions will result in a municipality being automatically treated as a non-public entity if the application is deficient in this respect. As the preamble clearly states, this is not the case. "If a municipality fails to submit evidence of competence, this fact will be included in the Commission's assessment of any application deficiencies and, if the cumulative deficiencies do not warrant rejection of the application, the municipality will be granted the usual time to submit the needed information before the priority status obtained by filing is lost." 46 FR 55246. Petitioner's argument nothwithstanding, failure to provide the necessary substantiation on this point will be part of the Commission's

[1] Final Rule, "Revisions to Certain Regulations Governing Applications for Preliminary Permit and License for Water Power Projects." (Docket No. RM81-15-000) issued October 29, 1981, 46 Fed. Reg. 55,245 (November 9, 1981), FERC Stat. and Reg. Preambles (1977-1981) ¶30,305.

[2] On April 28, 1982, the Commission issued Order No. 225, which revised and reorganized its Rules of Practice and Procedure (47 FR 19014, May 3, 1982). That final rule replaced the automatic intervention provision in Order No. 183 applicable only to preliminary permit proceedings with a provision (§ 385.214(c)) making automatic intervention possible, with certain limitations, in all Commission proceedings. Rule 214 is based on the Commission's belief that intervention by notice serves the interests that both the Commission and prospective participants have in efficient administration.

[3] Final Rule, "Amendments to Regulations Governing Case-by-Case Exemption From All or Part of Part I of the Federal Power Act for Small Hydroelecric Power Projects With an Installed Capacity of 5 Megawatts or Less," (Docket No. RM82-2-000) issued August 27, 1982, 47 FR 38506 (September 1, 1982) at 38511.

[4] The preamble to the final rule explains that "§ 4.30(d) is added to remind applicants that any person possessing or intending to acquire such proprietary interests and to maintain them when the proposed project is operational should be a coapplicant for a permit or a license. When, at the licensing stage, the Commission accounts for all interests in a project, the license applicant(s) must be determined to control all the interests essential to managing the development. If other persons in fact have or share those interests, the applicant risks loss of whatever priorities it may have established." 46 FR 55246.

consideration of whether the application is deficient.

Petitioner also notes that § 4.51(a)(5)(i) specifies that municipal charters may be acceptable evidence of competency to engage in the power business, but that § 4.81(a)(4) does not.[5] The Commission considers a municipal charter to be acceptable evidence under the term "appropriate legal authority" in § 4.81(a)(4). Therefore, in order to eliminate any possible misunderstanding, the Commission is clarifying § 4.81(a)(4) to specify that a municipal charter may be acceptable evidence of municipal competency.

C. Changing Filing Dates of Applications When Material Amendments are Made (§ 4.35)

Under new § 4.35, a material amendment to a pending preliminary permit or license application results in the application being assigned a new filing date as a new application, conceivably at the expense of priority in time. Although the Commission has previously addressed petitioner's objections to this provision [6]—*i.e.*, that it impedes the licensing process, fails to remedy the situation it was intended to remedy, and retards the fullest and best development of hydropower resources—two contentions do warrant discussion.

The petitioner argues that the regulation is contrary to section 7(a) of the Federal Power Act (Act) because it does not allow a state or a municipality the right to upgrade its application *at any time*. Section 7(a) states that, in considering permit applications and license applications where no permit has been issued, the Commission must give preference to applications by states and municipalities, "provided the plans for the same are deemed by the Commission equally well adapted, or shall *within a reasonable time to be fixed by the Commission* be made equally well adapted, to conserve and utilize in the public interest the water resources of the region * * *." (emphasis added). The Commission does not agree that the Act provides an unlimited right to amend. However, the Act does afford a state or a municipality a "reasonable time" to make its plans equally well adapted in response to a competitor's plans, presumably to preserve the importance of the preference clause while ensuring optimal development.

Section 4.35 of the Commission's regulations is not intended to curtail this right and cannot be used as a means of assigning a new filing date if an amendment is designed to make a preference applicant's plans "equally well adapted" as the plans of a competing applicant. When the Commission notifies the state or municipality that its plans are inferior, it will fix a reasonable period of time for the state or municipality to amend its plans to make them equally well adapted.[7] In such cases, § 4.35 would not apply and the original filing date would be retained. The practice of not applying the provisions of § 4.35 to amendments such as these is not clear on the face of that section. The Commission is, therefore, amending § 4.35 to clarify this point.[8]

For the foregoing reasons, the Commission orders that: The Application for Rehearing by the law firm of Spiegel and McDiarmid is denied in part and is granted in part, to the extent of the clarifications set forth below.

(Federal Power Act, as amended, 16 U.S.C. 792–828c (1976); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. IV 1980); E.O. No. 12009, 3 CFR Part 142 (1978); 5 U.S.C. 553 (Supp. IV 1980))

List of Subjects in 18 CFR Part 4

Electric power.

In consideration of the foregoing, Part 4, Chapter 1 of Title 18, Code of Federal Regulations, is amended as set forth below, effective May 16, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—[AMENDED]

1. In § 4.35, paragraph (a) is revised to read as follows:

§ 4.35 Amendment of application; date of acceptance.

(a) *General rule.* (1) Except as provided in subparagraph (a)(2), if an applicant amends its filed license or preliminary permit application in order to change the status or identity of the applicant or materially amend the proposed plans of development, the Commission will change the date of acceptance of the application under § 4.31(e) to the date on which the amendment is filed with the Commission and consider the amended application as a new filing for the purposes of disposing of competing applications under § 4.33 and reissuing public notice of the application under § 4.31(c)(2).

(2) *Exceptions.* This section does not apply to:

(i) Any corrections of deficiencies made pursuant to § 4.31(d)(1);

(ii) Any amendments made pursuant to § 4.33(g)(4) by a state or a municipality to amend its proposed plans of development to make them as well adapted as the proposed plans of an applicant that is not a state or a municipality;

(iii) Any amendments made pursuant to § 4.33(h)(2) by a priority applicant to amend its proposed plans of development to make them as well adopted as the proposed plans of an applicant that is not a priority applicant.

* * * * *

2. In § 4.81, paragraph (a)(4) is revised to read as follows:

§ 4.81 Contents of application.

* * * * *

(a) *Initial statement:* * * *

(4) [Name of applicant] is a [citizen, association of citizens, domestic corporation, municipality, or state, as appropriate]. [If the applicant is a municipality, the applicant must submit copies of applicable state or local laws or a municipal charter or, if such laws or documents are not clear, any other appropriate legal authority, evidencing that the municipality is competent under such laws to engage in the business of developing, transmitting, utilizing, or distributing power].

* * * * *

[FR Doc. 83-0961 Filed 4-13-83; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Parts 4, 16, 131 and 375

[Docket No. RM81-10-000]

Application for License for Minor Water Power Projects and Major Water Projects 5 Megawatts or Less

Issued: April 8, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order that denies a petition for rehearing of the final rule that expands the applicability of the so-called "short-form" license application to include both minor water power projects and major water power projects of 5 megawatts or less. For reasons detailed in the rehearing order, the Commission denies the petitioner's request for modification of the final rule.

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[5] Sections 4.41(a)(5)(i) and 4.61(b)(6)(i) also specify that municipal charters are evidence of competency to engage in the power business.

[6] 46 FR 55249.

[7] *See* Section 4.33(g)(4). *See also* Arkansas Valley Electric Cooperative, *et al.* 13 FERC ¶ 61,048, October 20, 1980.

[8] This dicussion applies equally to a permittee that submits an acceptable application for license within the permit period. *See* § 4.33(h)(2).

EFFECTIVE DATE: April 8, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph H. Long, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

In the matter of application for license for minor water power projects and major water power projects 5 megawatts or less, Docket No. RM81-10-000, Order No. 185-A; order denying rehearing.

Issued April 8, 1983.

I. Introduction

On November 6, 1981, the Federal Energy Regulatory Commission (Commission) issued a final rule which, among other things, expands the applicability of the so-called "short-form" application to include both minor water power projects and major water power projects of 5 megawatts (MW) or less.[1] This rule was designed in general to simplify and expedite hydropower development by easing the burden of preparing license applications and by assisting the Commission in more rapid processing of applications.

On December 7, 1981, the Municipals filed a timely petition for rehearing.[2] On January 6, 1982, the Commission granted rehearing of the Municipals' petition solely for the purpose of further consideration.

II. Background

Prior to the final rule in this docket, short-form license applications could be filed under §§ 4.60 and 4.61 only for minor water power projects of 1.5 MW or less installed capacity. In the final rule, the Commission expanded the applicability of §§ 4.60 and 4.61 to also include applications for initial or new licenses for major water power projects of 5 MW or less installed capacity. The Commission thereby greatly reduced the amount of information required from a license applicant for a water power project with an installed capacity of between 1.5 MW and 5 MW.[3]

The final rule has been designed to ensure that the Commission can still meet its responsibilities under the Federal Power Act even though license applicants for smaller, major water power projects could now use the short-form application.

III. Issues Raised by Municipals

The Municipals raise three issues on rehearing of this rule. First, the Municipals argue that license applicants for major water power projects of 5 MW or less should be required to state "the measure of control or ownership exercised by the applicant in any other organization or over applicant by any other organization * * *."[4] Second, the Municipals assert that § 4.61 should require a license applicant for such a project to submit a "statement of the applicant's plans, if any, for future development of the project or of any other existing or proposed water power project on the stream or other body of water, indicating the approximate location and estimated installed capacity of the proposed developments."[5] Third, the Municipals argue that § 4.61(a)(3) is not sufficiently clear that maintenance and repair work is permitted on an existing dam at the proposed project site to the extent necessary to protect lives or preserve the structural integrity of the dam.[6]

In expanding the applicability of §§ 4.60 and 4.61 to include license applications for major water power projects with 5 MW or less installed capacity, the Commission excluded information that was not needed at all or that was needed only infrequently. This reduction in required information relieves both an undue filing burden on applicants and an administrative burden on the Commission. The information desired by the Municipals, that on "control" and on "future plans of development," has not been sufficiently useful in the past to warrant a generic requirement on all prospective licensees. In the unusual case where the Commission believes that this type of information is necessary to determine whether to issue a license, the Commission can and will request such information on a case-by-case basis.[7]

With respect to the Municipals' third argument on rehearing, the Commission believes that the final rule and its preamble clearly state the Commission's position, *i.e.*, forbidding prelicense work on proposed project works but allowing limited emergency work on an existing dam that would be part of a proposed project.[8] The Commission does not interpret § 4.61(a)(3) to prohibit such work, and the preamble of the final rule adequately explains the meaning of § 4.61(a)(3).

For the foregoing reasons, the Commission orders that: That Application for Rehearing by the Massachusetts Municipal Wholesale Electric Company and the Cities and Towns of Bedford, Blackstone, Culpeper, Danville, Elkton, Franklin, Front Royal, Harrisonburg, Manassas, Martinsville, Radford, Richlands, Salem and Wakefield, Virginia is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9962 Filed 4-13-83; 8:45 am]

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[1] Docket No. RM81-10-000, Order No. 185, issued Nov. 6, 1981, 46 FR 55,944 (Nov. 13, 1981); FERC Stat. and Reg. Preambles (1977-1981) ¶ 30,309. The provisions of the final rule are codified primarily in 18 CFR 4.60 and 4.61.

[2] "Application For Rehearing On Behalf of The Massachusetts Municipal Wholesale Electric Company and The Cities and Towns of Bedford, Blackstone, Culpeper, Danville, Elkton, Franklin, Front Royal, Harrisonburg, Manassas, Martinsville, Radford, Richlands, Salem and Wakefield, Virginia" ["Municipals' Application"]. The petitioners are referred to collectively as the "Municipals."

[3] The Commission and its predecessor, the Federal Power Commission, have maintained a distinction between "major" and "minor" projects based on section 10(i) of the Federal Power Act (Act). That provision permits waiver of some provisions or requirements of the Act for projects with not more than 2000 horsepower, or 1.5 MW, of installed capacity. Such a waiver is manifested in the kinds of conditions contained in licenses for projects above ["major"] and below ["minor"] the 1.5 MW demarcation. *See* 18 CFR 2.9. The construction and operation of minor projects under less stringent license conditions than major projects will continue unchanged by this rule. However, this rule allows license application procedures for minor projects to apply (with the exception of an Exhibit E for unconstructed projects) to major projects with an installed capacity of 5 MW or less.

[4] Municipals' Application, at 1. Former § 131.2(4) required all prospective licensees to provide this statement in their license applications. Section 131.2 was revoked in Docket No. RM80-39, Order No. 184, issued Nov. 6, 1981, 46 FR 55,926, (Nov. 13, 1981). Accordingly, this aspect of the Municipals' rehearing petition is not within the scope of this rulemaking.

[5] Municipals' Application, at 2 and 3. This information is required in the license application for a proposed project with installed capacity of more than 5 MW. *See* § 4.51(c)(4).

[6] Municipals' Application, at 2 and 3.

[7] *See, e.g.*, section 9(c) of the Federal Power Act, 16 U.S.C. 802(c).

[8] The preamble states that prelicense work "should be undertaken only to the extent necessary to protect lives or preserve the structural integrity of the dam." The preamble also makes it clear that the project works described in an application should not be changed substantially while the Commission reviews an applicant's proposal. 46 FR, at 55,946.

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18 CFR Part 271

[Order No. 286; Docket No. RM79-76-141 (Texas-24)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions

which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.203). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Garza Sand be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357-8571, or Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: April 7, 1983.

The Federal Energy Regulatory Commission (Commission) hereby amends § 271.703(d) of its regulations to include the Garza Sand, underlying land in Duval County, Texas, as a designated tight formation, eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued October 28, 1982 (47 FR 49652, November 3, 1982),[1] based on a recommendation by the Railroad Commission of Texas (Texas), in accordance with § 271.703, that the Garza Sand be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the Garza Sand meets the guidelines contained in § 271.703(c)(2). the Commission adopts the Texas recommendation.

This amendment shall become effective thirty days after publication in the **Federal Register.**

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

[1] No comments or requests for a public hearing were received by the Commission in this docket.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(122) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(122) *Garza Sand in Texas.* RM79-76-141 (Texas-24).

(i) *Delineation of Formation.* The Garza Sand is found in Duval County in Texas. The designated area is located approximately 3 miles west of the city of Concepcion, Texas, in Railroad Commission District 4 and includes portions of the following surveys: Andres Garcia Heirs Survey, Abstract 657; Santos Flores Survey, Abstract 475; R. Ramirez Survey, Abstract 475; and Marcello Ynojosa Survey, Abstract 628.

(ii) *Depth.* The top of the Garza Sand ranges from a measured depth of −6,700 feet to approximately −7,400 feet subsea.

[FR Doc. 83-9807 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Order No. 287; Docket No. RM79-76-147 (Texas-3 Addition II Amendment)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.203). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Credo, East (Cisco, Upper) Field Formation, designated as a tight formation in Docket No. RM79-76 (Texas-3 Addition II), be amended.

EFFECTIVE DATE: This rule is effective May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357-8571, or Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: April 7, 1983.

The Federal Energy Regulatory Commission (Commission) hereby amends § 271.703(d) of its regulations to include an additional area of the Credo, East (Cisco, Upper) Field Formation, underlying lands in Sterling County, Texas, as a designated tight formation, eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued November 18, 1982. FR 53033, November 24, 1982),[1] based on an amended recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that the additional area of the Credo, East (Cisco, Upper) Field Formation be designated as a tight formation.

The Commission previously adopted Texas' original recommendation that the Credo, East (Cisco, Upper) Field Formation be designated as a tight formation.[2] However, in the text of its original recommendation, Texas inadvertently omitted eleven sections of land from the recommended area, and thus such land was not included in the area designated in Order No. 239. Texas subsequently submitted an amended recommendation, in this docket, for the Credo, East (Cisco, Upper) Field Formation to include those areas omitted from the original recommedation.

Evidence submitted by Texas supports the assertion that the addition area of the Credo, East (Cisco, Upper) Field Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas amended recommendations.

This amendment shall become effective thirty days after publication in the **Federal Register.**

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

[1] Comments were invited on the proposed rule and one comment supporting the amended recommendation was received. No party requested a public hearing and no hearing was held.

[2] *See,* Order No. 239, Docket No. RM79-76 (Texas-3 Addition II), issued June 23, 1982 (47 FR 28366, June 30, 1982).

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(12)(ii)(A) to read as follows:

§ 271.703 [Amended]

* * * * *

(d) *Tight formations.* * * *

(12) *The Cisco Sandstone Formation in Texas.* RM79-76 (Texas-3).

* * * * *

(ii) *The Credo, East (Cisco, Upper) Field.*

(A) *Delineation of formation.* The Upper Cisco Formation is located in the northwestern corner of Sterling County, in west Texas, Railroad Commission District 8, and includes Sections 149, 150, 151, 170, 171, 172, 177, 178, 179, 198 through 207 and 226 through 230 of Block 29, W&NW RR Co. Survey; Sections 1 through 6 and 15 through 18 of Block 30, W&NW RR Co. Survey; Sections 1 through 5, 5¼, 5¾, 6(A-1013), 6(A-1269, A-1293 and A-1305), 7 through 10, 10½, and 11 through 13 of Block 31, TWP. 4-S, T&P RR Co. Survey; Section 2 of Lily Roberts Survey; Sections 1, 2 and 4 of J. G. Soulard, Survey; Sections 5 through 8, and 18 of Block 14, SP & RR Co. Survey; Sections 1 through 36 of Block 23, H & TC RR Co. Survey; and Sections 46 through 50, 95 through 101, 127, 182, and 207 of Block 17, SP & RR Co. Survey.

* * * * *

[FR Doc. 83-9868 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Order No. 288; Docket No. RM79-76-149 (Texas-3 Addition IV)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.203). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that an additional area of the Cisco-Canyon Formations be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357-8571, or Walter Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: April 7, 1983.

The Federal Energy Regulatory Commission (Commission) hereby amends § 271.703(d) of its regulations to include an additional area of the Cisco-Canyon Formations, underlying lands in Glasscock, Reagan, and Sterling Counties, Texas, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued December 16, 1982 (47 FR 57058) (December 22, 1982),[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that the additional area of the Cisco-Canyon Formations be designated as a tight formation.

Evidence submitted by Texas [2] supports the assertion that the additional area of the Cisco-Canyon Formations meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective thirty days after publication in the **Federal Register.**

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(12)(iii)(A) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(12) *Cisco Sandstone Formation in Texas.* RM79-76-149 (Texas-3 Addition IV).

* * * * *

(iii) *The Cisco-Canyon Formation.* (A) *Delineation of formation.* The Cisco-Canyon Formations are found in the area of the Conger, S.W. (Penn) Field in Glasscock, Reagan and Sterling Counties, Texas, Railroad Commission Districts 7C and 8. The area includes the following sections: T. & P. RR. Co. Block 33, T-5-S, Sections 34, 36, and W½ of 38; T. & P. RR. Co. Block 32, T-5-S, Sections 40, 41, 42 and 46; T. & P. RR. Co. Block 2, Sections 44, 50, 62, 70, 90, 100, 118, 128, 146, 155 and 156; G. C. & S. F. RR., Sections 1 and 3; C. T. & M. C. RR., Section 2; E. L. & RR., Sections 3 and 4; W. R. Barton, Section 4; S. H. Birdwell, Section 17; Brooks & Burleson, Sections 1 and 2; D. L. Carver, Section 4; T. B. Wilson, Section 2; and approximately the south half of H. T. Tweedle, Section 2 (I. W. Terry Fee).

* * * * *

[FR Doc. 83-9869 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-098 (Montana—1)]

High-Cost Gas Produced From Tight Formations; Order Remanding Recommendation to Jurisdictional Agency

Issued April 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order remanding recommendation to jurisdictional agency.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain

[1] Comments were invited on the proposed rule and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

[2] The calculations for permeability and flow rates submitted by Texas are based on median values, rather than average values. However, using the data submitted by Texas in support of its recommendation, the Commission has determined that the arithmetic average values for permeability and flow rates for the subject formation also satisfy the Commission's guidelines in § 271.703(c)(2).

types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.203). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This order remands to the State of Montana Board of Oil and Gas Conservation (Montana) its recommendation that the Bowdoin, Greenhorn, and Phillips Formations each be designated as a tight formation under § 271.703(d), and requests that Montana provide additional information and resubmit its recommendation.

DATE: This order is issued April 7, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357-8571 or Victor Zabel (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Order Remanding Jurisdictional Agency Recommendation for Tight Formation Designation

Issued April 7, 1983.

In the matter of high-cost gas produced from tight formations; Docket No. RM79-76-098, (Montana—1).

I. Background

On January 29, 1982, the Federal Energy Regulatory Commission (Commission) received a recommendation pursuant to § 271.703 of the Commission's regulations (18 CFR 271.703), from the State of Montana Board of Oil and Gas Conservation (Montana), that the Bowdoin, Greenhorn, and Phillips Formations located in Phillips and Valley Counties, Montana, each be designated as a tight formation. The recommendation was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (Director), issued June 1, 1982 (47 FR 24342, June 4, 1982). Inasmuch as approximately 70% of the recommended area underlies Federal land and is under the jurisdiction of the United States Department of the Interior, Minerals Management Service (MMS), MMS reviewed the recommendation. By letter dated February 24, 1982, MMS informed the Commission that it did not appprove Montana's recommendation, stating that the production of gas from the subject formations presented neither extraordinary risk nor cost. By a letter to the Commission dated March 26, 1982, MMS reversed its position, and concurred with Montana's recommendation.[1]

In response to the June 1, 1982 Notice of Proposed Rulemaking, the Commission received several comments and requests for a public hearing. A public hearing concerning Montana's recommendation was held at the Commission on August 20, 1982. For purposes of this Order, those who responsed to the Notice of Proposed Rulemaking or testified at the public hearing, and urged the Commission to deny Montana's recommendation, will be described collectively as the "opposing commenters."[2]

The opposing commenters argued that gas produced from the subject area was not high-cost natural gas, and that the production of such gas did not involve extraordinary risks or costs. These commenters pointed to the fact that numerous applications for infill drilling in adjacent areas have been received by Montana subsequent to its recommendation to the Commission regarding the subject formation. Applications for infill drilling arguably indicate that the area can be economically developed absent the tight formation incentive price.

The opposing commenters also stated that Montana's recommendation failed to meet the Commission's guidelines. In support of this allegation, these commenters stated that excessive net pay thicknesses were used for the calculations of average permeability in the recommendation, which resulted in lower permeability calculations. The opposing commenters also argued that drill-stem tests of dry holes were included in the recommendation, which also lowers the permeability and flow rate values.

The accuracy of the production rates submitted to Montana was also questioned. One opposing commenter argued that Petroleum Corporation of America (PCA), a company which supplied data to Montana in the proceedings which Montana held on the subject formations, excluded drill-stem tests which yielded high permeabilities, while including tests with zero production rates. These zero production rates submitted by PCA were alleged by the opposing commenters to be from plugged and abandoned wells that were never put on production, in contravention of the requirement in § 271.703(c)(2)(i)(B) that information be included in the recommendation concerning the stabilized production rates of wells *completed for production.* This opposing commenter also noted that information on the Petroleum Information Service cards regarding production rates for various wells in the recommended area, differed from that submitted to Montana. Finally, one opposing commenter asserted that there was no evidence in the record to indicate that the flow rates submitted were made under stabilized conditions, as is required in § 271.703(c)(2)(i)(B).

The opposing commenters also addressed the propriety of actions taken by MMS in this docket. In its February 24, 1982 letter, MMS stated that it believed that the applicant seeking the tight formation designation from Montana, as well as its expert witnesses, employed excessive manipulation of the data to establish permeability values and prestimulation flow rates. MDU alleges that MMS' March 26, 1982 letter, in which it reversed its position, was written after MMS made post-hearing contacts with persons who had filed the applications seeking the subject tight formation recommendations. MDU further claims that those opposing the application had no knowledge of these post-hearing contacts, and thus had no opportunity to counter the off-the-record arguments, cross-examine the witnesses, or consider any of the information presented during these contacts.

On June 30, 1982, an attorney for PCA stated the February 24, 1982 analysis by MMS was an inaccurate review of the tight formation application. Such inaccuracy was said to result from the consideration by MMS of wells that were not within the recommended area. According to PCA, the March 26, 1982 letter reflected a more thorough investigation of the application. In a letter dated August 12, 1982, Mr. Harold L. Doley, Jr., of MMS, reiterated his agreement with the conclusion submitted to the Commission in the March 26, 1982 letter.[3] The opposing

[1] On April 22, 1982, the Commission received a letter from Montana-Dakota Utilities Co. (MDU) protesting the actions of MMS. On April 26, 1982, the Commission received a similar letter from the Montana Public Service Commission (MPSC), which requested that the Commission investigate the circumstances behind the MMS March 26, 1982 letter The Commission was subsequently notified on May 11, 1982, by Senator Max Baucus, that the matter raised by MDU and MPSC had been forwarded to the United States Comptroller General. The GAO report on MMS involvement in the subject tight formation recommendation has yet to be released.

[2] Those commenters opposing Montana's recommendation are Montana-Dakota Utilities Co., Montana Public Service Commission, and Southern California Gas Company with Pacific Lighting Gas Supply Company. A comment in support of Montana's recommendation was filed by Petroleum Corporation of America.

[3] Mr. Doley further added that MMS "strongly opposes and rejects the rationale that drilling of

commenters requested that the Commission consider only the February 24, 1982 letter opposing the tight formation recommendation, and desregard MMS' March 26, 1982 letter.

II. Discussion

In support of this recommendation, and in response to issues raised by the opposing commenters, the Commission has received six separate sets of data regarding the permeability and flow rate values for the recommended area. Three sets of data were sent to the Commission by Montana in the original application. On July 19, 1982, the Commission received a letter from Dr. James W. Crafton, a witness for PCA at the hearing before Montana. Dr. Crafton submitted new pre-stimulation production rate averages, as well as new *in situ* permeability averages for the subject formations. Dr. Crafton defended the analysis employed, stating that it is especially suited for the recommended area.

At the August 20, 1982 public hearing, PCA presented a fifth set of averages for *in situ* permeability and pre-stimulation production rates. Finally, the Commission received a letter from PCA's attorney on September 7, 1982, in which he submitted further revised data and stated that the Montana order excluded more land than had been voted on at the Montana hearing. By letter received by the Commission on September 17, 1982, Montana concluded that the acreage description in its order was correct.

Under the tight formation program, as detailed in Order No. 99,[4] tight formation recommendations submitted to the Commission by the various jurisdictional agencies are approved under the Commission's rulemaking authority. The Commission is not limited by the evidence in the record presented to it by the jurisdictional agency and the various commenters, and accordingly is free to request or to develop any additional evidence which it deems necessary in order for it to issue a rule in a tight formation designation proceeding.

Review of Montana's recommendation, as it presently stands, reveals that there are six sets of data for permeability averages and production rates and that there are problems attendant with each set. The first five sets included data on wells which were not within the recommended area. The accuracy of all of the data submitted has been challenged by the opposing commenters. It has also been alleged that the incentive price is not necessary to encourage production of this gas, and that the numerous applications for infill drilling orders for the recommended area indicate that the gas can be developed absent the incentive price. Moreover, it is also apparent that PCA, up to the time of the public hearing convened by this Commission, was unaware of the delineation of the acreage that had actually been recommended by Montana. Further, there are allegations of improper actions by MMS, as well as an ongoing investigation into these allegations by the GAO. Due to these problems, the Commission believes that it would be premature and inappropriate to take action in this docket based on the current state of the record. Montana and the interested parties should evaluate the problems raised regarding the accuracy and persuasiveness of the evidence submitted, as well as the other problems raised in this proceeding. Should Montana decide to resubmit its recommendation, it should include with that recommendation any new evidence that addresses the issues that have been raised in this docket.

III. The Commission Orders

Based on the above, the Commission hereby remands to the State of Montana Board of Oil and Gas Conservation its recommendation that the Bowdoin, Greenhorn, and Phillips Formations be designated as a tight formation so that Montana may obtain additional information and resubmit its recommendation, in accordance with the Commission's regulations in § 271.703 in accordance with the above discussion.

By the Commission.

Kenneth F. Plumb,

Secretary.

(FR Doc. 83-9649 Filed 4-13-83; 8:45 am)

BILLING CODE 6717-01-M

these shallow formations (average depth of which is 2,000 feet) and production of natural gas from them, would engender conditions that would present extraordinary risks or costs to the applicant."

[4] Docket No. RM79-76, issued August 22, 1980, FERC Statutes and Regulations Preambles 1977-1981, ¶30,183.

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18 CFR Part 294

[Docket No. RM79-52-000]

Interim Procedures for Shortages of Electric Energy and Capacity Under Section 206 of the Public Utility Regulatory Policies Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Extension of interim rule.

SUMMARY: The Federal Energy Regulatory Commission amends its rules to extend, through a period ending April 30, 1984, the interim rule implementing reporting procedures for shortages of electric energy and capacity, under section 206 of the Public Utility Regulatory Policies Act of 1978. Under the rule, each public utility now serving firm power wholesale customers must report to the Commission, the utility's customers, and appropriate State authorities, any shortages of electric energy or capacity anticipated to occur prior to April 30, 1984. Also, the rule requires each public utility to report any modifications of its plans for accommodating shortages which may occur before April 30, 1984.

EFFECTIVE DATE: May 1, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard B. Chew, Office of Electric Power Regulation, 825 North Capitol Street NE., Room 504RB, Washington, D.C. 20426 (202) 376-9264; Kenneth J. Malloy, Rulemaking and Legislative Analysis Section, Office of General Counsel, 825 North Capitol Street NE., Room 8602-A, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Extension of Interim Rule

Issued: April 8, 1983.

The Federal Energy Regulatory Commission (Commission) is amending § 294.101 of its regulations (18 CFR 294.101 (1982)), which is an interim rule that requires electric utilities to report to the Commission anticipated shortages of electric energy and capacity as required by section 206 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The amendment extends the effectiveness of the rule through April 30, 1984.

I. Discussion

Section 206 of PURPA amended the Federal Power Act by adding a new subsection (g) to section 202, under which the Commission is directed to require, by rule, that each public utility (1) provide prompt notice to the Commission and the appropriate state regulatory authority of any anticipated shortages of electric energy or capacity which would affect the utility's capability of serving its wholesale customers, (2) prepare and submit to the Commission and to any appropriate state regulatory authority contingency plans that would outline what circumstances might give rise to such shortages, and (3) accommodate such shortages while giving due consideration to the public health, safety, and welfare, and assuring that all persons served directly and indirectly are treated

without undue prejudice or disadvantage.

On June 15, 1979, the Commission issued, on an interim basis, 18 CFR 294.101 to implement section 206 of PURPA.[1] The Commission also issued a Notice of Inquiry requesting comments on various issues relating to the implementation of section 206 of PURPA.[2]

The Commission initially required public utilities serving firm power wholesale customers to submit a plan indicating how the utility would accommodate any shortages of electric energy or capacity affecting its firm power customers (accommodation plan), that might occur prior to September 30, 1979. 18 CFR 294.101(b)(1982). The accommodation plans were filed in 1979. The Commission currently requires all utilities to file amendments made prior to April 30, 1983, to the accommodation plans filed in 1979.

Paragraph (c) of the interim rule requires each utility to report immediately any shortage of electric energy or capacity that the utility anticipates will occur. In that report the utility must provide the Commission with certain information, including information regarding any procedures for accommodating a particular shortage, if they differ from the procedures set out in the utility's statement submitted pursuant to paragraph (b) of the interim rule.

II. Amendment to Interim Rule

Prior to this amendment, paragraph (a) defined "anticipated shortages of electric capacity or energy" as those situations which would result in shortages "anticipated to occur prior to April 30, 1983."[3] This amendment will extend the definition to cover shortages anticipated to occur prior to April 30, 1984, so that the Commission will be advised of any anticipated shortages which may occur during the coming year. Accordingly, the Commission is amending the interim rule.

Additionally, the interim rule is amended to extend to April 30, 1984, the requirement of paragraph (c) that a utility file a supplemental statement setting forth changes in the contingency plan on file with the Commission. A utility need not file a statement of its plan to accommodate shortages prior to April 30, 1984, if that plan does not vary from that set out in the statement already filed pursuant to paragraph (b).

III. Effective Date

Since the Commission is required by statute to have rules in effect regarding the continuance of electric service, good cause exists under 5 U.S.C. 553(b) to make this amendment effective on May 1, 1983, and to do so without prior notice and comment.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 (1978); Federal Power Act, 16 U.S.C. 792-828c (1976 & Supp. IV 1980))

List of Subjects in 18 CFR Part 294

Electric utilities, Reporting requirements.

In consideration of the foregoing, Part 294 of Chapter I, Title 18 of the Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 294—[AMENDED]

§ 294.101 [Amended]

In § 294.101, paragraphs (a)(1), (a)(2), and (b)(4) are amended by removing the date "1983" each time it appears and inserting in its place, the date "1984".

[FR Doc. 83-9965 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[1] Interim Regulations, 18 CFR 294.101 (1979), Docket No. RM79-52 (issued June 15, 1979), 44 FR 37,500 (June 27, 1979).

[2] Inquiry Implementing Section 206 of the Public Utility Regulatory Policies Act of 1978, Continuance of Service, Docket No. RM79-52, (issued April 22, 1980), 45 FR 28,162 (April 28, 1980). The Commission staff is reviewing the comments received in order to determine whether there are additional appropriate means of implementing section 206 of PURPA.

[3] This date was initially September 30, 1979, but was extended to April 30, 1980, by Interim Regulations, Docket No. RM79-52 (issued Oct. 23, 1979), 44 FR 61,953 (Oct. 29, 1979). It was extended to April 30, 1981, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued April 1, 1980), 45 FR 23,664 (April 8, 1980), to April 30, 1982, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued April 23, 1981), 46 FR 24,550 (May 1, 1981), and to April 30, 1983, by Amendment to Extend Interim Regulations, Docket No. RM79-52 (issued May 5, 1982), 47 FR 20,296 (May 12, 1982).

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 947

Surface Mining and Reclamation Operations Under a Federal Program for Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Postponement of Effective Date and Extension of Comment Period on the Interim Federal Program for Washington.

SUMMARY: The Office of Surface Mining (OSM) is announcing the postponement of the effective date and the extension of the comment period for the interim final Federal program to regulate surface coal mining and reclamation operations in the State of Washington. This action is taken in response to the comments received.

DATES: The effective date is postponed until May 13, 1983 and written comments will be accepted until 5:00 p.m. April 28, 1983, at the address below.

ADDRESSES: Written comments must be mailed to: Administrative Record Room (R & I-21), Office of Surface Mining, Wyoming Field Office, P.O. Box 1420, Mills, Wyoming 82644

or hand delivered to:

Office of Surface Mining, Wyoming Field Office, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Room 204, Washington, D.C. 20240, Telephone: (202) 343-5866.

SUPPLEMENTARY INFORMATION: On February 24, 1983, the Office of Surface Mining published an interim final Federal program for Washington in the **Federal Register** to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in that State. 48 FR 7870, February 24, 1983. At that time, OSM announced that the effective date of the program would be April 25, 1983, and that comments would be accepted until April 14, 1983, on whether the pending revisions to OSM's permanent program rules made it necessary or desirable for OSM to modify the Washington Federal program, since the Washington Federal program cross-references those rules.

In response to public comment, OSM is now postponing the effective date of the Washington Federal program until May 13, 1983, and extending the comment period until April 28, 1983.

Because public hearings were held for the proposed Washington Federal program, none will be scheduled during this comment period. However, persons wishing to meet with OSM officials should contact the person listed above under **"FOR FURTHER INFORMATION CONTACT"** in order to schedule such a meeting.

Dated: April 11, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 83-9945 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 92

[CGD 78-079a]

St. Marys River Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is presently developing a final rule for St. Marys River Vessel Traffic Service (VTS). One purpose of the rulemaking is to delete several sections of the existing anchorage and navigation regulations for the St. Marys River which conflict with the Inland Navigation Rules. Because the Inland Navigation Rules came into effect on the Great Lakes on March 1, 1983 and the St. Marys River VTS regulations have yet to be issued, immediate action is required to eliminate existing conflicts. To that end, this docket has been split in two parts. This action, CGD 78-079a, removes sections of the existing anchorage and navigation regulations for the St. Marys River which conflict with the Inland Navigation Rules. A second action, CGD 78-079b, will deal with the remainder of the regulations discussed in the Notice of Proposed Rulemaking.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. LaRue Jr., Project Manager, Office of Marine Environment and Systems, (202) 426-4958, between the hours of 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On January 5, 1981, the Coast Guard published a Notice of Proposed Rulemaking for St. Marys River VTS regulations (46 FR 946). Publication of the final rule was expected to predate the effective date of the statutory Inland Navigation Rules on the Great Lakes. This would have allowed the Coast Guard to remove several sections from the existing anchorage and navigation regulations for the St. Marys River (33 CFR Part 92) before they were superseded by parts of the Inland Navigation Rules. Because some questions concerning the proposed VTS regulations (mostly in the area of communication rules) have yet to be resolved, the entire final rule is not ready for publication. Therefore, the Coast Guard is dividing the rulemaking into two parts. This action, CGD 78-079a, removes the six sections of 33 CFR Part 92 which are in conflict with the Inland Navigation Rules. It is effective immediately. A separate action, CGD 78-079b, will contain the remainder of the regulations discussed in the Notice of Proposed Rulemaking and will be published at a later date.

Discussion

Section 92.39 of Title 33, Code of Federal Regulations, is deleted because Rule 27 of the Inland Navigation Rules (33 U.S.C. 2027) prescribes the visual signals for a vessel engaged in dredging or underwater operations, when restricted in her ability to manuever.

Section 92.41 is deleted because Rule 30 (33 U.S.C. 2030) prescribes the visual signals for a vessel aground.

Section 92.43 is deleted because Rule 35 (33 U.S.C. 2035) prescribes the sound signals for a vessel aground.

Section 92.45 is deleted because Rule 34 (33 U.S.C. 2034) prescribes the signals for vessels nearing a bend.

Section 92.63 is delete because Rules 9, 13, and 34 (33 U.S.C. 2009, 2013, 2034) prescribe the requirements for narrow channels, overtaking, and sound signals for overtaking, respectively.

Section 92.81 is deleted because Rule 18 (33 U.S.C. 2018) outlines responsibilities between vessels.

The deletion of the above sections was discussed in the Notice of Proposed Rulemaking. Although several comments were received, none addressed any of the six sections to be deleted. Recently, however, the Coast Guard received inquiries about whether the above sections, or the Inland Navigation Rules which conflict with those sections, take precedence. In order to avoid confusion, the Coast Guard is deleting the conflicting regulations immediately, before the navigation season is in full swing.

Regulatory Evaluation

This action has been reviewed under the provisions of Executive Order 12291 and under DOT Order 2100.5, dated May 5, 1980, and has been determined to be non-major and non-significant. This document deletes several sections of regulations which have been superseded by statute. No additional requirements are imposed on the public as a result of this rulemaking. For these reasons, in accordance with section 605(b) of the Regulatory Flexibility Act [94 Stat. 1164], it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 92

Anchorage grounds, Navigation (water), Waterways.

PART 92—[AMENDED]

In consideration of the foregoing, Part 92 of Title 33 of the Code of Federal Regulations is amended as follows:

§§ 92.39, 92.41, 92.43, 92.45, 92.63 and 92.81 [Removed]

1. Sections 92.39, 92.41, 92.43, 92.45, 92.63, and 92.81 are removed.

(Secs. 1-3, 29 Stat. 54-55, as amended, sec. 6 (b)(1), 80 Stat. 937; 33 U.S.C. 474, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: March 30, 1983.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 83-9955 Filed 4-13-83; 8:45 a.m.]

BILLING CODE 4910-14-M

46 CFR Part 150

[CGD 82-100a]

Compatibility of Cargoes; Consolidation of Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: 46 CFR Part 150 contains requirements for compatible stowage of bulk liquid hazardous materials on tank vessels. This final rule updates the Compatibility of Cargoes Table found in Part 150 by adding additional cargoes approved for carriage since the final rule was published on October 23, 1980 (45 FR 70262).

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph J. Jakabcin, Telephone 202-426-6262.

SUPPLEMENTARY INFORMATION: On November 15, 1982 (47 FR 51427), the Coast Guard published a notice of proposed rule-making. Interested persons were given a deadline of December 30, 1982 for submission of written comments. A public hearing was to be scheduled if requested by anyone raising a genuine issue. No request for a public hearing has been received. However, comments received called attention to several commodities which had been approved for bulk carriage but were not included in the notice of proposed rule-making. These commodities will be included in a forthcoming notice of proposed rule-making. It should be noted that the compatibility chart, its authorized exceptions and companion tables, listing chemicals alphabetically and by group,

will be updated periodically as the Coast Guard approves new chemical cargoes for carriage.

The addition of commodities to the table in Part 150 neither authorizes nor prohibits the carriage of a particular cargo. Authorized cargoes are listed in 46 CFR 151.01–10. The regulations in Part 150 simply identify those cargoes which are not compatible and prescribe minimum standards for keeping incompatible cargoes separated while being carried. Thus the rules in this part have only minimal economic impact.

Several changes are made to correct typographical errors of no substantive effect.

Regulatory Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification Analysis and Review of Regulations (DOT Order 2100.5 of 5–22–80). For the reasons set forth above, these rules have only a minimal impact; therefore, a full regulatory evaluation has not been prepared.

Regulatory Flexibility Evaluation

These regulations primarily involve tankbarge fleets owned and operated by major corporations. Accordingly, it is certified that under the Regulatory Flexibility Act this rule will not, if promulgated, have a substantial economic impact on a significant number of small entities.

List of Subjects in 46 CFR Part 150

Hazardous materials transportation.

Accordingly, Part 150 of Title 46 of the Code of Federal Regulations is amended as follows:

PART 150—COMPATIBILITY OF CARGOES

1. By adding the following in alphabetical order in Table I:

Acetophenone....18
Acetyl Tibutyl Citrate....34
Acrylamide Solution....10
Alcohols (Mixed)....20
Alkyl Phthalates (n-)....34
(2-Aminoethoxy) Ethanol, 2-....8
Ammonium Polyphosphate....43
Ammonium Sulfate Solution (20% or less)....43
Behenyl Alcohol....20
Butyl Heptyl Ketone (iso-)....18
Butyl Methacrylate, Decyl Methacrylate, Cetyl Eicosyl Methacrylate Mixture....14
Calcium Bromide Solution....43
Calcium Chloride Solutions....43
Carbon Black Base....33
Cashew Nut Shell Oil (untreated)....4
Chloronitrobenzene, 2-See Nitrochlorobenzene, ortho-
Chlorotoluene (m-, o-, p-)....36
Choline Chloride Solutions....20
Cresylic Acid....21
Cyclopentadiene Polymers....30
Cyclopentadiene, Styrene, Benzene Mixture....30
Diammonium Salt of Zinc Ethylene Diamine Tetraacetic Acid Solution....43
Dichloroisopropyl Ether....36
Dichlorophenol, 2,4-....21
Dichloropropane/1,3-Dichloropropene Mixture....15
Dichloropropionic Acid, 2,2-....4
Diethyl Sulfate....34
Diethylene Glycol Monophenyl Ether....40
Diglycidyl Ether of Bisphenol A....41
Diisononyl Phthalate....34
Diisooctyl Phthalate....34
Diisopropyl Benzene....32
Diisopropyl Napthalene....32
Dimethyl Acetamide....10
Dimethylcyclohexylamine....7
Dimethyloctanoic Acid, 2,2-....4
Dimethyl Phthalate....34
Dimethyl Polysiloxane....34
Dimethylpropane-1-3-Diol, 2,2-....20
Dipentene....30
Dipropylamine....7
Dipropylene Glycol Dibenzoate....34
Dodecylamine, Tetradsecylamine Mixture....7
Dodecyl Diphenyl Oxide Disulfonate Solution....43
Dodecyl Pentadecyl Methacrylate....14
Epoxy Resin....18
Ethyl-6-Methyl-n-(1-Methyl-2-Methoxy Ethyl) Aniline,2-....9
Ethylbutylamine(n-)....7
Ethylene Glycol Monoisopropyl Ether....40
Ethylene Glycol Phenyl Ether....40
Ethylidene Norbornene....30
Ethyl Hexylamine....7
Ethylhexioc Acid, 2-....4
Fatty Acid Amides....33
Formaldehyde, Methanol Mixtures....19
Glutaraldehyde Solution....19
Glyceryl Triacetate....34
Glycidyl Ester of Versatic Acid....34
Glycols, Resins, and Solvents Mixture....33
Heptanoic Acid(n-)....4
Heptene, 1....30
Herbicide ($C_{15}H_{22}NO_2Cl$)....33
Hydrofluorosilicic Acid....1
Kaolin Clay Slurry....43
Lignin Liquor (Calcium Ligno-Sulfonate, Water Solution)....43
Magnesium Nonyl Phenol Sulfide....33
Maleic Anhydride....11
Maleic Anhydride Copolymer....33
Methacrylic Acid....4
Methoxy Triglycol....40
Methyl Acetoacetate....34
Methylamine Solutions....7
Methyl iso-Amyl Ketone....18
Methyl-6-Ethyl Aniline, 2-....9
Methyl Heptyl Ketone....18
Methyl-2-Hydroxy-3-Butyne, 2-....20
Methyl Naphthalene....32
Methylolureas (20% Free Formaldehyde)....19
Methyl Pyridine, 2....9
Methyl Pyridine,3....9
Methyl Pyrrolidone (N-)....9
Methyl tert-Butyl Ether....41
Molassas....20
Naphtha, Cracking Fraction....33
Napthenic Acid....4
Nitrochlorobenzene, ortho-....42
Nonyl Phenol Sulfide....33
Octadecene-1....30
Octadecenoamide (Oleamide)....10
Oils, Aliphatic....33
Oils, Oiticia....34
Oils, Seal....34
Oils, Soapstock....34
Oils, Tung....34
Oils, White (Mineral)....33
Oils, Edible, Babassu....34
Oils, Edible, Coconut, Methyl Ester....34
Oils, Edible, Corn....34
Oils, Edible, Cotton Seed Fatty Acid....34
Oils, Edible, Rapeseed....34
Oils, Edible, Rice Bran....34
Oils, Edible, Soybean (epoxidized)....40
Oils, Edible, Sunflower Seed....34
Oleic Acid....4
Pentenenitrile (crude), 3-....37
Pentadiene, 1,3-....30
Pinene....30
Polyethylene Polyamines....7
Polyvinylbenzyltrimethyl Ammonium Chloride Solution....43
Pseudocumene (1,2,4-Trimethylbenzene)....32
Propionitrile....37
Rum....20
Sewage Sludge....43
Sodium Borohydride Solution (15% or less)/Sodium Hydroxide Solution....5
Sodium Carbonate Solutions....5
Sodium Cyanide Solution (30% or less)....5
Sodium Dimethyl Naphthalene Sulfonate, Aq. Solution....34
Sodium Hypochlorite Solution (15% or less)....5
Sodium Polyacrylate Solution....43
Sodium Silicate Solution....43
Stearic Acid....4
Tall Oil, Fatty Acid....34
Tallow Fatty Acid....34
Tallow Nitrile....37
Toluenediamine....9
Toluidine (ortho-)....9
Triarylphosphate....34
Tributyl Phosphate....34
Trichloroethane, 1,1,1-....36
Trichloro-1-2-2-Trifluoroethane, 1,1,2-....36
Tridecane....34
Triethylene Glycol Butyl Ether Mixture....40
Triethylene Glycol Ether Mixture....40
Triethyl Phosphate....34
Triisooctyl Trimellitate....34
Trimethyl Benzene, 1,2,4....32
Trimethyl Pentanediol-1-3-Diisobutyrate, 2,2,4-....34
Trimethyl-3-Pentanol-1-Isobutyrate, 2,2,4-....34
Tripropylene....30
Vinyl Acetate, Fumarate Copolymer....34
Vinyl Neodecanate....13
Zinc Bromide, Calcium Bromide Solution....43

2. In footnote 1, immediately following Table I, by changing G–MHM–3/TP to G–MTH–3

3. By adding the following entries in alphabetical order, under the headings indicated, in Table II:

1. *Non-Oxidizing Mineral Acids:*
   Hydrofluorosilicic Acid
4. *Organic Acids:*
   Cashew Nut Shell Oil (untreated)
   Dichloropropionic Acid, 2,2-
   Dimethyloctanoic Acid, 2,2-
   Ethylhexoic Acid, 2-
   Heptanoic Acid (n-)
   Methacrylic Acid
   Napthenic Acid
   Oleic Acid
   Stearic Acid
5. *Caustics:*
   Sodium Borohydride Solution (15% or less)/
   Sodium Hydroxide Solution
   Sodium Carbonate Solutions
   Sodium Cyanide Solution (30% or less)
   Sodium Hypochlorite Solution (15% or less)
7. *Aliphotic Amines:*
   Dimethylcyclohexylamine
   Dipropylamine
   Dodecylamine, Tetradecylamine Mixture
   Ethylbutylamine (n-)
   Ethyl Hexylamine
   Methylamine Solutions
   Polyethylene Polyamines
8. *Alkanolamines:* (2-Aminoethoxy) Ethanol, 2-
9. *Aromatic Amines:*
   Ethyl-6-Methyl-n-(1-Methyl-2-Methoxy Ethyl) Aniline, 2-
   Methyl-6-Ethyl Aniline, 2-
   Methyl Pyridine, 2
   Methyl Pyridine, 3
   Methyl Pyrrolidone (N-)
   Toluenediamine
   Toluidine (ortho-)
10. *Amides:*
   Acrylamide Solution
   Dimethyl Acetamide
   Octadecenoamide (Oleamide)
11. *Organic Anhydrides:* Maleic Anhydride
13. *Vinyl Acetate:* Vinyl Neodecanate
14. *Acrylates:*
   Butyl Methacrylate, Decyl Methacrylate, Cetyl Eicosyl Methacrylate Mixture
   Dodecyl Pentadecyl Methacrylate
15. *Substituted Allyls:* Dichloropropane/1,3-Dichloropropene Mixture
18. *Ketones:*
   Acetophenone
   Butyl Heptyl Ketone (iso-)
   Epoxy Resin
   Methyl iso-Amyl Ketone
   Methyl Heptyl Ketone
19. *Aledhydes:*
   Formaldehyde, Methanol Mixtures
   Glutaraldehyde Solution
   Methylorlureas (20% free Formaldehyde)
20. *Alcohols, Glycols:*
   Alcohols (Mixed)
   Behenyl Alcohol
   Choline Chloride Solutions
   Dimethylpropane-1-3-Diol, 2,2-
   Methyl-2-Hydroxy-3-Butyne, 2-
   Molassas
   Rum
21. *Phenols and Cresols:*
   Cresylic Acid
   Dichlorophenol, 2,4-
30. *Olefins:*
   Cyclopentadiene Polymers
   Cyclopentadiene, Styrene, Benzene Mixture
   Dipentene
   Ethylidene Norbornene
   Heptene, 1-
   Octadecene-1
   Pentadiene, 1,3-
   Pinene
   Tripropylene
32. *Aromatic Hydrocarbons:*
   Diisopropyl Benzene
   Diisopropyl Napthalene
   Methyl Naphthalene
   Pseudocumene (1,2,4-Trimethylbenzene)
   Trimethyl Benzene, 1,2,4-
33. *Misc. Hydrocarbon Mixtures:*
   Carbon Black Base
   Fatty Acid Amides
   Glycols, Resins, and Solvents Mixture
   Herbicide ($C_{15}H_{22}NO_2C1$)
   Magnesium Nonyl Phenol Sulfide
   Maleic Anhydride Copolymer
   Naphtha, Cracking Fraction
   Nonyl Phenol Sulfide
   Oils, Aliphatic
   Oils, White (Mineral)
34. *Esters:*
   Acetyl Tributyl Citrate
   Alkyl Phthalates (n-)
   Diethyl Sulfate
   Diisononyl Phthalate
   Diisooctyl Phthalate
   Dimethyl Phthalate
   Dimethyl Polysiloxane
   Dipropylene Glycol Dibenzoate
   Glyceryl Triacetate
   Glycidyl Ester of Varsatic Acid
   Methyl Acetoacetate
   Oils, Oiticia
   Oils, Seal
   Oils, Soapstock
   Oils, Tung
   Oils, Edible, Babassu
   Oils, Edible, Coconut, Methyl Ester
   Oils, Edible, Corn
   Oils, Edible, Cotton Seed Fatty Acid
   Oils, Edible, Rapeseed
   Oils, Edible, Rice Bran
   Oils, Edible, Sunflower Seed
   Sodium Dimethyl Naphthalene Sulfonate, Aq. Solution
   Tall Oil, Fatty Acid
   Tallow Fatty Acid
   Triarylphosphate
   Tributyl Phosphate
   Tridecane
   Triethyl Phosphate
   Triisooctyl Trimellitate
   Trimethyl Pentanediol-1-3-Diisobutyrate, 2,2,4-
   Trimethyl-3-Pertanol-1-Isobutyrate, 2,2,4-
   Vinyl Acetate, Fumarate Copolymer
36. *Halogenated Hydrocarbons:*
   Chlorotoluene (m-, o-, p-)
   Dichloroisopropyl Ether
   Trichloroethane, 1,1,1-
   Trichloro-1-2-2-Trifluoroethane, 1,1,2-
37. *Nitriles:*
   Pentenenitrile (crude), 3-
   Propionitrile
   Tallow Nitrile
40. *Glycol Ethers:*
   Diethylene Glycol Monophenyl Ether
   Ethylene Glycol Monoisopropyl Ether
   Ethylene Glycol Phenyl Ether
   Methoxy Triglycol
   Oils, Edible, Soybean (epoxidized)
   Triethylene Glycol Butyl Ether Mixture
   Triethylene Glycol Ether Mixture
41. *Ethers:*
   Diglycidyl Ether of Bisphenol A
   Methyl tert-Butyl Ether
42. *Nitrocompounds:* Nitrochlorobenzene, ortho-
43. *Miscellaneous Water Solutions*
   Ammonium Polyphosphate
   Ammonium Sulfate Solution (20% or less)
   Calcium Bromide Solution
   Calcium Chloride Solutions
   Diammonium Salt of Zinc Ethylene Diamine Tetraacetic Acid Solution
   Dodecyl Diphenyl Oxide Disulfonate Solution
   Kaolin Clay Slurry
   Lignin Liquor (Calcium Ligno-Sulfonate, Water Solution)
   Polyvinylbenzyltrimethyl Ammonium Chloride Solution
   Sewage Sludge
   Sodium Polyacrylate Solution
   Sodium Silicate Solution
   Zinc Bromide, Calcium Bromide Solution

Dated: March 25, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-9053 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-718; RM-4182]

FM Broadcast Stations in Farmington, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a third FM channel to Farmington, New Mexico, in response to a petition filed by San Juan Broadcasting Corp.

DATE: Effective June 6, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of; amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Farmington, New Mexico), BC Docket

No. 82-718, RM-4182.

Adopted: March 23, 1983.

Released: April 6, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 49420, published November 1, 1982, proposing to assign Channel 271 to Farmington, New Mexico, as its third FM assignment. The Notice was issued in response to a petition filed by San Juan Broadcasting Corporation [1] ("petitioner"). Petitioner filed comments in support of the proposal. No oppositions were received.

2. We are satisfied that the public interest would be served by the proposed assignment, which could provide Farmington with its third FM service. The channel can by assigned in compliance with the minimum distance separation requirements.

3. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective June 6, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community.

City	Channel No.
Farmington, New Mexico	225, 245, and 271.

4. *It is further ordered,* That this proceeding is *terminated.*

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

[1] San Juan Broadcasting Corporation is the licensee of Station KKBK(AM), Aztec, New Mexico.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-9618 Filed 4-13-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-717; RM-4185]

FM Broadcast Stations in Winters, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 240A to Winters, Texas, in response to a petition filed by Soho Broadcasting. The assignment could provide for a first FM broadcast station at Winters.

DATE: Effective June 6, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (203) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

Adopted: March 23, 1983.

Released: April 6, 1983.

By the Chief, Policy and Rules Division.

In the Matter of: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Winters, Texas) BC Docket 82-717, RM-4185.

1. The Commission has under consideration the *Notice of Proposed Rule Making,* 47 FR 49423, published November 1, 1982, proposing the assignment of Channel 240A to Winters, Texas, as its first FM assignment. The *Notice* was issued in response to a petition filed by Soho Broadcasting ("petitioner"). Supporting comments were filed by the petitioner, restating its interest in the channel.

2. In view of the fact that the proposed assignment could provide a first FM station at Winters, Texas, the Commission believes that the public interest would be served by assigning Channel 240A to that community. The channel can be assigned in compliance with the minimum distance separation requirements. Mexican concurrence has been obtained in the assignment of Channel 240A at Winters, Texas.

3. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is ordered,* That effective June 6, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Winters, Texas	240A

4. *It is further ordered,* That this proceeding *is terminated.*

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-9617 Filed 4-13-83; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 73
Thursday, April 14, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-ANE-16]

Airworthiness Directives; General Electric Company CF6-45 and CF6-50 Series Model Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new Airworthiness Directive (AD) which would require the replacement of certain titanium high pressure compressor (HPC) parts found on CF6-45 and CF6-50 series engines. High vibration, mechanical failures of HPC blades, or rotor unbalance, causing severe rubbing of titanium HPC components has resulted in engine fires.

DATES: Comments on the proposed rule must be received on or before May 28, 1983. Proposed effective date July 28, 1983.

ADDRESS: Send comments on the proposed rule in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attn: Rules Docket No. 81-ANE-16, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletins and Commercial Engine Service Memorandums may be obtained from General Electric Company, Neumann Way, Cincinnati, Ohio 45215.

Copies of the service bulletins and Commercial Engine Service Memorandums are contained in the above Rules Docket.

FOR FURTHER INFORMATION CONTACT: Arthur W. Nelson, Transport Engine Section, ANE-141, Engine Certification Branch, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Prior Regulatory History

A proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to General Electric Company CF6-45 and CF6-50 series model turbofan engines was published in the **Federal Register** on October 5, 1981 (46 FR 48941). A minor correction to the proposed AD was published in the **Federal Register** on November 9, 1981 (46 FR 55273). There had been 33 titanium fires in CF6-50 engines. Testing and analysis have shown that the substitution of steel HPC components for titanium in critical areas has eliminated titanium fires. It was the intent of the proposed AD to require the replacement of the titanium forward HPC case, the inlet and first and second stage vanes, and the stages 6-9 blades with steel parts. Configuration changes were also simultaneously required on the titanium 3-9 spool and stages 3-5 blades.

Interested persons were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. Five comments were received in response to the Notice of Proposed Rulemaking (NPRM). Two commentators noted the error in the initial publication of the NPRM in paragraph (c) where Service Bulletin 72-550 was inadvertently referenced rather than 72-551. This was corrected in the November 9, 1981, publication of the **Federal Register.** One commentator also noted that the General Electric Service Bulletins which were referenced specified revision numbers and corresponding dates. It was indicated that these revisions did not substantially alter the technical content of the bulletins and that engines which were upgraded in accordance with earlier revisions were in agreement with the requirements.

Two commentators also pointed out that the listing of specific part numbers in the AD would be unduly restrictive since all of the alternate part numbers were not included. It was also noted that in some cases part numbers are not tracked, and it would require disassembling an upgraded engine to prove compliance. Control is adequately maintained by recording the accomplishment of the service bulletin.

The FAA has reviewed the service bulletin revisions and agrees that the technical content has not changed to date. It is also agreed that adequate control of compliance is achieved by verifying accomplishment of the bulletins without listing all of the part changes. Accordingly, this NPRM references only the numbers of the approved service bulletins.

One commentator, while disputing the need for an AD, also pointed out that the majority of the titanium fires were caused by component failures within the HPC. This is correct, and that cause has been added to the list in the summary section of this NPRM. As to the requirement for an AD, it has been determined that this is an uncontained failure of the engine, and despite the fact that no secondary nacelle fires have resulted, there is a high risk of one if flammable fluids were present for any reason. Therefore, mandatory compliance with the engine upgrade program is deemed to be necessary.

Three commentators stated that the compliance date of December 31, 1982, would be difficult to achieve for some operators without excessive expense, based on the present plans for kit deliveries and scheduled engine

removals during 1982. A date of December 31, 1983, was recommended. The FAA notes that the airline industry has voluntarily retrofitted more than 97% of the applicable engines to the steel compressor configuration described by the General Electric Service Bulletins. The FAA has determined that AD action is necessary to ensure that the remaining engines are retrofitted. In consideration of the above, the compliance date has been revised to the requested December 31, 1983.

The FAA has given careful consideration to the comments which were received and has determined that sufficient evidence exists in the public interest of aviation safety to continue rulemaking action. Because of the time interval since the issuance of the orginal NPRM and because of the adjusted compliance date proposed, the FAA has decided to again issue an NPRM on the proposed rule.

Approximately 25 engines are affected by this AD, and the cost impact is estimated to be $11,500,000. For this reason, the proposed rule is not considered to be major under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected, since the rule affects only operators of B747, DC-10, and A300 aircraft in which the CF6-45, -50 engines are installed, none of which are believed to be small entities.

List of Subject in 14 CFR Part 39

Engine, Aircraft, Aviation safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

General Electric Company: Applies to CF6-45 and CF6-50 series model turbofan engines. Compliance is required prior to December 31, 1983 (unless already accomplished). To prevent the possibility of uncontained titanium fires, accomplish the following:

(a) Replace compressor stator assembly including the compressor case and stage 6 stator vanes in acordance with FAA approved General Electric CF6 and CF6-50 Service Bulletin 72-549.

(b) Replace compressor inlet stator vanes and stage 1 and 2 stator vanes in accordance with FAA approved General Electric CF6-45 and CF6-50 Service Bulletin 72-550.

(c) Replace compressor blades, stages 3 through 9, and the stage 3-9 spool in accordance with FAA approved General Electric CF6-45 and CF6-50 Service Bulletin 72-551.

Note.—The FAA has requested Federal Register approval to incorporate by reference Service Bulletins 72-549, 72-550, and 72-551.

The manufacturer's specifications and procedures identified and described in this notice may be obtained upon request to General Electric Company, Neumann Way, Cincinnati, Ohio 45215. These documents may also be examined at the FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts. A historical file on this AD is maintained by the FAA, New England Region Office, Burlington, Massachusetts.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Aircraft Certification Division, FAA, New England Region, may adjust the compliance date specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C 1655(c)); 14 CFR 11.85)

Note.—Based upon an assessment of the economic impact of this proposed AD, as discussed more fully in the section entitled **"SUPPLEMENTARY INFORMATION"**, I certify that this action (1) is not a "Major Rule" under Executive Order 12291; (2) is not a "Significant Rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the evaluation for this action is contained in the Regulatory Docket. A copy of it may be obtained by contacting the person identified under caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Burlington, Massachusetts, on March 18, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-9614 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-17]

Proposed Alteration of Transition Area, Beaufort, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to increase the size of the Beaufort, South Carolina, transition area to accommodate Instrument Flight Rule (IRF) operations at Beaufort County Airport. This action will lower the base of the additional controlled airspace from 1,200 to 700 feet above the surface. An Instrument approach procedure, based on the Beaufort Airport Surveillance Radar system, is being developed to serve the airport and the additional controlled airspace is required for protection of IFR aeronautical activities.

DATES: Comments must be received on or before: May 15, 1983.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parites are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No.——." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal

Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Beaufort, South Carolina, transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure to Beaufort County Airport. If the proposed alteration of the transition area is found acceptable, the operating status of the airport will be changed from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Beaufort MCAS, SC—Revised

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Beaufort MCAS (Lat. 32°28'53" N., Long. 80°43'10" W.); within 5 miles each side of Beaufort TACAN 037° radial extending from the 8.5-mile radius area to 9 miles northeast of the TACAN; within a 6-mile radius of Beaufort County Airport (Lat. 32°24'45" N., Long. 80°38'00" W.), excluding that portion that coincides with the Hilton Head transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, March 28, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-9535 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-13]

Proposed Alteration of Transition Area, Liberty, North Carolina

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to increase the size of the Liberty, North Carolina, transition area to accommodate Instrument Flight Rule (IFR) operations at May Airport. This action will lower the base of the additional controlled airspace from 1,200 to 700 feet above the surface. An instrument approach procedure, based on the Liberty VORTAC facility, is being developed to serve the airport and additional controlled airspace is required for protection of IFR operations.

DATES: Comments must be received on or before: May 10, 1983.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ——." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Liberty, North Carolina, transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure to May Airport. If the proposed alteration of the transition area is found acceptable, the operating status of the airport will be changed from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Liberty, NC—Amended

By adding after the words "the VOR" the following: "; within a 6-mile radius of May Airport (Lat. 35°59'55" N., Long. 79°41'20" W.)."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on March 30, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-9537 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AWA-4]

Correction to VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to Notice of Proposed Rulemaking

SUMMARY: This action corrects the descriptions of V-72 and V-447 as published in the **Federal Register** on March 17, 1983, by terminating Federal Airway V-72 at Lebanon, NH, and realigning V-447 to include Cambridge, NY, in the description.

DATE: Comments must be received on or before May 2, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-4, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 83-6535 (83-AWA-4), published on March 17, 1983, proposed to realign several airways in the vicinity of Montpelier, VT, because the Montpelier VORTAC will be relocated. However, VOR Federal Airways V-72 and V-447 were not described correctly and this action corrects these mistakes.

Availability Of NPRM's

Any person may obtain a copy of this Correction to Notice of Proposed Rulemaking (NPRM) by submitting a request to the Fedral Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this Correction. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

List of Subjects in 14 CFR Part 71

VOR airways.

Correction to The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 83-6535, as published in the **Federal Register** on March 17, 1983, (48 FR 11285) is corrected by deleting the paragraphs under V-72 and V-447 and substituting the following:

V-72 [Amended].

By deleting all the words after "Lebanon, NH."

V-447 [Amended].

By deleting the words "From Cambridge, NY, Montpelier, VT; INT Montpelier 020° and Sherbrooke, PQ, Canada. 217° radials; Sherbrooke." and substituting the words "From Cambridge, NY, via INT Cambridge 025°T(039°M) and Montpelier 221°T(236°M) radials; Montpelier; to Sherbrooke, PQ, Canada."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on April 6, 1983.

John W. Baier

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-9448 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWP-21]

Proposed Alteration of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would realign VOR Federal Airway V-460 from Poggi, CA, to Julian, CA, via an east dogleg. The realignment would give additional flexibility to controllers for maneuvering traffic proceeding inbound from the north into the San Diego, CA, and Miramar, CA, airport terminal areas. This action would improve traffic flow, reduce delays, and increase safety.

DATE: Comments must be received on or before May 30, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 82-AWP-21, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is

located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffice Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AWP-21." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-460 from Poggi, CA, to Julian, CA, via an east dogleg. This realignment will allow controllers to route some departure/arrival aircraft via an east bypass route thereby avoiding excessive crossing traffic in the San Diego, CA, and Miramar NAS, CA, terminal areas. This action would improve traffic flow, increase safety, and reduce controller workload. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

VOR Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V-460 [Revised]

From Poggi, CA via Mission Bay, CA; INT Mission Bay 090°T(076°M) and Julian, CA, 184°T(170°M) radials; Julian; to Blythe, CA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant perparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgatyed, will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on April 7, 1983.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-9746 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-ASW-15]

Proposed Alteration of Transition Area and Control Zone: San Angelo, TX.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area and control zone at San Angelo, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to Mathis Field. This action is necessary since a review of the designated controlled airspace revealed that the airspace is not properly described and the extensions southwest of the airport are not required.

DATES: Comments must be received on or before May 16, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G § 71.181 and Subpart F § 71.171 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area and control zone at San Angelo, TX, will necessitate an amendment to these subparts. This amendment will be required at San Angelo, TX, since a review of the airspace revealed that some additional airspace is needed to the northeast, and transition area and

control zone extensions southwest of the airport can be eliminated for the protection of aircraft executing SIAP's.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Subpart F § 71.171

San Angelo, TX [Revised]

Within a 5.5-mile radius of Mathis Field (latitude 31°21'30" N, longitude 100°29'45" W.) and within 2 miles each side of the San Angelo VORTAC 065° radial extending from the 5.5-mile radius area to 8 miles northeast of the VORTAC; and within 2 miles each side of the San Angelo ILS localizer northeast course extending from the 5.5-mile radius area to 8 miles northeast of the San Angelo VORTAC 314° radial.

Subpart G § 71.181

San Angelo, TX [Revised]

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Mathis Field (latitude 31°21'30" N., longitude 100°29'45" W.), and within 2 miles each side of the San Angelo VORTAC 065° radial extending from the 8-mile radius area to 10.5 miles northeast of the VORTAC; and within 2 miles each side of the San Angelo ILS localizer northeast course extending from the 8-mlie radius area to 10.5 miles northeast of the San Angelo VORTAC 314° radial.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on April 5, 1983

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-9604 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-14]

Alteration of Transition Area and Control Zone: Texarkana, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area and control zone at Texarkana, AR. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Texarkana Muni-Webb Field. This action is necessary since a review of the designated controlled airspace indicates that the transition area should be increased for large aircraft and the control zone does not require the extension to the VORTAC.

DATES: Comments must be received on or before May 16, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stepenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 and F 71.171 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area and control zone at Texarkana, AR, will ncessitate an amendment to these subparts. This amendment will be required at Texarkana, AR, since a review of the designated controlled airspace indicates the transition area needs to be enlarged and the control zone does not require the extension to the northwest.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.)

Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their coments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedaures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas, Aviation safety.

Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Subpart F 71.171

Texarkana, AR Revised

Within a 5-mile radius of the Texarkana Muni-Webb Field (latitude 33°27'13"N., longitude 93°59'27"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Subpart G 71.181

Texarkana, AR Revised

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Texarkana Muni-Webb Field (latitude 33°27'13"N., longitude 93°59'27"W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that wil only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on April 4, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-9853 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-20]

Designation of Transition Area; El Reno, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at El Reno, OK. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Mustang Field Airport. This action is necessary since a new NDB and associated instrument approach procedure are being established at El Reno, OK. Coincident with this action, the airport will be changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before May 16, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the Transition area at El Reno, OK, will necessitate an amendment to this subpart. This amendment will be required at El Reno, OK, since there is a proposed new IFR procedure to the Mustang Field Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas, Aviation safety.

Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

El Reno, OK New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Mustang Field Airport (latitude 35°28'17" N., longitude 98°00'31" W.) and within 3 miles each side of the 169° bearing from the El Reno NDB (latitude 35°28'43" N., longitude 98°00'31" W.) extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Exective Order 12291; (2) is not a "significant rule" under DOT Regulatory policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on April 5, 1983.

F. E. Whitfield,

Acting Director Southwest Region.

[FR Doc. 83-9805 Filed 4-13-83; 8:45 am]

BILLLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM82-32-000]

Limitation on Incentive Prices for High-Cost Gas to Commodity Values; Public Hearing

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Public Hearing.

SUMMARY: On February 10, 1983, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (48 FR 7469, February 22, 1983) proposing to modify the maximum lawful price of high-cost gas designated by the Commission under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), to ensure that the ceiling prices do not go above the commodity value of gas. Pursuant to requests from interested persons, a public hearing will be held.

DATE: The public hearing will be held on Monday, May 16, 1983 at 10:00 a.m. Requests to participate and the amount of time requested should be directed to the Secretary no later than May 6, 1983.

ADDRESSES: The hearing will be held at: Hearing Room A, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Requests to participate and questions regarding participation should be directed to: The Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Fred A Wolgel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: On February 10, 1983, the Commission issued a Notice of Proposed Rulemaking (48 FR 7,469, February 22, 1983) proposing to modify the maximum lawful price of high-cost gas designated by the commission under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), to ensure that the ceiling prices do not go above the commodity value of gas.

Specifically, the Commission proposed to establish a ceiling price for this gas at the lesser of (1) an imputed commodity value based on the price of alternative fuels, or (2) the incentive ceiling price which would otherwise apply to that gas. The Commission has received requests for a public hearing wherein interested persons would have the opportunity to make oral presentations of their views on the proposed rule. Pursuant to these requests, the Commission is scheduling a public hearing.

The hearing will be held on Monday, May 16, 1983, at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, Hearing Room A.

The hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM82-32-000, in the Commission's Office of Public Information, and may be ordered from that office.

Requests to participate in the hearings should be submitted by May 6, 1983, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Requests should indicate who the speaker will be, what organization is represented, and the amount of time required for oral presentation. Persons participating at the hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information and at Hearing Room A on the morning the hearing is convened.

Dated: April 11, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9806 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-140-82]

Top-Heavy Plans

Correction

In FR Doc. 83-6629 beginning on page 10868 in the issue of Tuesday, March 15,

1983, make the following corrections to § 1.416–1:

1. In item *T–10*, in the 20th line from the top of the third column of page 10870, "group of employees" should have read "group of employers".

2. In item *T–25*, in the 16th line from the bottom of the first column of page 10873, "401(a)(1)(B)(ii)" should have read "401(a)(10)(B)(ii)".

3. In item *M–8*, in the 23rd line from the bottom of the first column of 10876, "section 410(a)(5)" should have read "section 401(a)(5)".

BILLING CODE 1505-01-M

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26 CFR Part 1

[LR-170-82]

Treatment of the Credit for Tax Withheld on Interest, Dividends, and Patronage Dividends Earned by an Estate or Trust

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed regulations with respect to the treatment of the credit for tax withheld on interest, dividends, and patronage dividends received by an estate or trust. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. These regulations affect estates, trusts, and their beneficiaries and provide them with the guidance needed to comply with the law.

DATES: Written comments and requests to speak at the public hearing must be delivered or mailed by June 13, 1983. The amendments are proposed to be effective with respect to interest, dividends, and patronage dividends paid or credited after June 30, 1983.

ADDRESS: Send comments and requests to speak at the public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–170–82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Clark of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3828), not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations relating to the treatment of the credit for tax withheld on interest, dividends, and patronage dividends received by an estate or trust under section 643(d) of the Internal Revenue Code of 1954 (Code), as added by section 302(b)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248, 96 Stat. 586). These proposed regulations are to be issued under the authority contained in sections 643(d) 7805 of the Internal Revenue Code of 1954 (96 Stat. 586, 26 U.S.C. 643(d); 68 Stat. 917, 26 U.S.C. 7805).

Section 301 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) requires, in general, that there be deducted and withheld on each payment of interest, dividends, or patronage dividends, a tax equal to 10 percent of the amount of the payment. Section 302(a) of TEFRA amends section 31 of the Code to provide that the amount of tax withheld on interest, dividends, and patronage dividends will be allowed to the recipient of the interest, etc., as a credit against the recipient's income tax.

Section 302(b)(1) of TEFRA amends section 643 by adding a new subsection (d). Section 643(d) provides that the credit for tax withheld on interest, dividends, and patronage dividends received by an estate or trust is allocated between the estate or trust and its beneficiaries on the basis of their respective shares of interest, dividends, and patronage dividends. Section 643(d) also provides that the amount of the credit allocated to the beneficiaries is treated as an amount paid to the beneficiaries and as an amount deductible by the estate or trust.

Defined Income Beneficiary

Under § 1.643(e)–2(a) of the proposed regulations, the credit for tax withheld is allocated to a defined income beneficiary in an amount equal to the additional amount the beneficiary would have received if the income required to be distributed had been distributed and if there had been no withholding. The term "defined income beneficiary" means a beneficiary entitled under the terms of the governing instrument to all or a fractional or percentage share of income currently. Beneficiaries entitled to a fixed dollar amount are not defined income beneficiaries, and no part of the credit for tax withheld is allocated to them. A beneficiary entitled to the greater (or lesser) of a fixed amount or all or a portion of income currently is treated as a defined income beneficiary in those years in which the beneficiary is entitled to a portion (or all) of the current income, and not to the fixed amount.

Discretionary Beneficiaries

In the case of a discretionary beneficiary, the credit for tax withheld is allocated to the beneficiary under § 1.643 (e)-2 (b) in an amount equal to the tax withheld multiplied by a fraction. In general, the numerator of the fraction is the amount of the distribution to the beneficiary, and the denominator of the fraction is a distributable net income minus tax withheld. If the estate or trust has defined income beneficiaries and discretionary beneficiaries, the credit is first allocated to the defined income beneficiaries. To accomplish this, the credit for the tax withheld is reduced by the portion of the credit allocated to the defined income beneficiaries. In addition, the denominator of the fraction is reduced by the amount of the income allocated to the defined income beneficiaries. If the sum of the distributions to discretionary beneficiaries exceeds distributable net income minus the tax withheld (as reduced for distyributions to defined income beneficiaries), the credit for the tax withheld is allocated on the basis of an alternative fraction. The numerator of this alternative fraction is the amount of the distribution to the discretionary beneficiary, and the denominator is the sum of all distributions to discretionary beneficiaries.

Charitable and NRA Beneficiaries

In general, charitable beneficiaries and beneficiaries who are nonresident alien individuals (NRAs) are treated like other beneficiaries. Thus, the credit for tax withheld is allocated to a charitable or NRA beneficiary under § 1.643 (e)–2 (a) or (b), and the beneficiary files a claim for credit or refund of the tax. If, however, the charitable or NRA beneficiary does not wish to file a claim for credit or refund, it may under § 1.643 (e)–4 elect to cede its share of the credit for tax withheld to the estate or trust, which will then file the claim on its own behalf. The charitable or NRA beneficiary may make the election after entering into an agreement with the estate or trust that the estate or trust will distribute to the beneficiary, at a time such that the amount is considered a distribution within the taxable year of the estate or trust that would reduce distributable net income under section 651 or 661, the same amount the estate or trust would have paid had there been no withholding. The charitable or NRA beneficiary makes the election to cede its share of the credit for tax withheld by filing a certificate with an estate on or before the last day of the taxable year of the estate or with a trust on or before the date that is 65 days after the last day of the taxable year of the trust, stating that the beneficiary is ceding its

share of the credit under section 31 (b) to the estate or trust.

Comments Invited on Specific Issues

The Internal Revenue Service invites comments on a number of specific issues raised by the allocation of the credit for tax withheld on interest, dividends, and patronage dividends earned by an estate or trust. Under proposed § 1.643 (e)–4, a charitable or NRA beneficiary may elect to cede its share of the credit to the estate or trust, upon agreement by the estate or trust to pay the beneficiary, at a time such that the amount is considered a distribution within the taxable year of the estate or trust that would reduce distributable net income under section 651 or 661, the amount that would have been paid had there been no withholding. The Service is interested in receiving comments on this procedure and on alternatives such as allowing the estate or trust to defer paying the beneficary an amount equal to the ceded credit until the estate or trust has obtained a refund of the credit ceded to it by the charitable beneficiary, requiring the credit to be allocated to a charitable or NRA beneficiary on the basis of estate or trust income allocated to the beneficiary, and requiring the credit that otherwise would be allocated to the charitable or NRA beneficiary to be allocated to the estate or trust rather than the charitable or NRA beneficiary.

Proposed § 1.643 (e)–2 (a) prescribes a mandatory allocation of the credit to defined income beneficiaries on the basis of their share of the estate's or trust's income, and proposed § 1.643 (e)–2 (b) prescribes a mandatory allocation of the credit to discretionary beneficiaries using certain formulae. The Service is interested in receiving comments on the mandatory allocations required by proposed §§ 1.643 (e)–2 (a) and (b). In addition, the Service would like comments on whether a rule similar to § 1.643 (e)–4, allowing charitable and NRA beneficiaries to cede their share of the credit to the estate or trust, would be appropriate for defined income beneficiaries and discretionary beneficiaries.

Under proposed § 1.643(e)–2(a)(1), none of the credit is allocated to an annuitant. The Service would like comments on proposed § 1.643((e)–2(a)(1) and on whether part of the credit should be allocated to an annuitant based on the annuitant's share of estate or trust income.

Proposed § 1.671–5 provides that in the case of a grantor trust, the credit is to be allocated to the person who would have received the amount of income represented by the credit had there been no withholding. The Service would like comments on proposed § 1.671–5 and on whether the credit should be allocated to the grantor rather than to the beneficiaries, at the election of the grantor.

The Service would like comments on whether the credit should be treated as an item of property, so that the trustee could allocate the credit among the estate or trust and its beneficiaries as provided by the governing instrument. Under this approach, the ceding rules of § 1.643(e)–4 and the allocation rules of § 1.643(e)–2 would be unnecessary.

The Service is particularly interested in any problems under state law that may exist with respect to any of these methods.

Comments; Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for inspection and copying. A public hearing has been scheduled and will be held on June 21, 1983. Notice of the time and place of the hearing appears in the proposed rules section of this issues of the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of propose rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of this regulation is Cynthia L. Clark of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.641—1.692–1

Income taxes, Estate, Trusts and trustees, Beneficiaries.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows.

PART 1—[AMENDED]

Paragraph 1. The following new §§ 1.643(e)–1 through 1.643(e)–4 are added immediately after § 1.643(d)–2.

§ 1.643(e)–1 Coordination with withholding on interest and dividends.

Under section 3451, relating to income tax collected at source, a tax of 10 percent is withheld from certain payments of interest, dividends, and patronage dividends. Under section 31(b), a credit is allowed for the tax withheld. Section 643(b) provides, in general, that subchapter J of the Code is to be applied with respect to payments subject to withholding by—

(a) Allocating between the estate or trust and its beneficiaries any credit allowable under section 31(b), relating to tax withheld on interest, dividends, and patronage dividends, on the basis of their respective shares of interest, dividends, and patronage dividends taken into account under subchapter J.

(b) Treating each beneficiary to whom the credit is allocated as if an amount equal to the allocable portion of the credit had been paid to the beneficiary by the estate or trust, and

(c) Allowing the estate or the trust a deduction in an amount equal to the portion of the credit allocated to the beneficiaries.

§ 1.643 (e)–2 Allocation of the credit under section 31(b).

(a) *Defined income beneficiaries and annuitants*—(1) *In general.* In the case of a defined income beneficiary, the credit under section 31(b) will be allocated to the beneficiary in an amount equal to the additional amount the beneficiary would have received if the income required to be distributed to the beneficiary had been distributed and if there had been no withholding. The term "defined income beneficiary" means a beneficiary entitled under the terms of the governing instrument to a current distribution of all or a fractional or percentage share of the income of the estate or trust for its taxable year, including all or a fractional or percentage share of income in excess of a fixed dollar amount. A beneficiary entitled to a distribution of a fixed dollar amount for a taxable year will be treated as an annuitant and not as a defined income beneficiary, for that year, with respect to amounts paid in satisfaction of the right to receive a fixed amount. No portion of the credit will be allocated to a beneficiary to the extent that the beneficiary is treated as an annuitant. Thus, for example, a beneficiary entitled to a distribution of a fixed amount payable out of income or

corpus will be treated as an annuitant and not as a defined income beneficiary, even if the amount is paid out of income. Similarly, a beneficiary entitled to a bequest of an amount equal to the federal estate tax credit available to a decedent's estate will be treated as an annuitant and not as a defined income beneficiary. Beneficiaries entitled to the greater (or lesser) of a fixed amount or all or a portion of income of the estate or trust for its taxable year will be treated as defined income beneficiaries with respect to amounts paid to them in those years in which the distribution they are entitled to receive is not the fixed amount. A beneficiary entitled to a distribution of an amount equal to a fixed percentage of the value of trust property, determined annually, is annuitant and not a defined income beneficiary, and no portion of the credit is allocated to the beneficiary. A beneficiary possessing the right to withdraw all or a fraction of trust principal is not a defined income beneficiary, even though the beneficiary is taxable on the income of the trust under section 678. As to the allocation of the credit in the case of grantors and others taxed as the owner of a trust, see § 1.671–5.

(2) *Examples.* The provisions of paragraph (a)(1) of this section may be illustrated by the following examples.

Example (1). Under the terms of the governing instrument, trust T is required to distribute all its income currently to A. In 1984, T earns $20,000 of interest, on which tax of $2,000 is withheld under section 3451. T has trust accounting income and distributable net income of $20,000. T distributes $18,000 to A. Because A is entitled, under the terms of the governing instrument, to all the trust income currently, A is a defined income beneficiary. Thus, the credit will be allocated to A in proportion to the income of the trust required to be distributed to A currently. Accordingly, the entire credit ($2,000) is allocated to A.

Example (2). Assume the same facts as in example (1) and in addition that T has $3,000 of expense allocable to income. As a result, T's trust accounting income and distributable net income are both $17,000. T has $15,000 cash remaining from current income available for distribution (interest less expense and tax withheld). T distributes $17,000 to A. The entire credit ($2,000) is allocated to A.

Example (3). Under the terms of the governing instrument, trust T is required to distribute one-fourth of its income currently to A and three-fourths of its income currently to B. In 1984, T earns $20,000 of interest, on which tax of $2,000 is withheld. T's trust accounting income and distributable net income are both $20,000. T distributes $4,500 to A and $13,500 to B. Because A and B are entitled to fractional share of trust income currently, both A and B are definied income beneficiaries. Thus, the credit will be allocated between A and B in proportion to their respective shares of current income. Accordingly, one-fourth of the credit ($500) is allocated to A and three-fourths ($1,500) is allocated to B.

Example (4). Under the terms of the governing instrument, the trustee of Z trust is required to pay a $10,000 per year or all the income of the trust for the year, whichever is greater. In 1984, Z has the following items of income and expense: $15,000 interest, $5,000 rental income, and $3,000 expenses allocable to income. Z has trust accounting income and distributable net income of $17,000 and $15,000 cash remaining from current income available for distribution. The trustee pays A $15,500. In 1984, A is treated as a defined income beneficiary because A is entitled to all the trust income for the year rather than the fixed amount of $10,000. Thus, the entire credit is allocated to A. Had trust accounting income been less than $10,000, A would have been treated as an annuitant; as a result, none of the credit would be allocated to A, and the entire credit would have been allocated to Z under § 1.643(e)–2(b)(3)(iv).

Example (5). Under the terms of the governing instrument, the trustee of Y trust is required to pay A $10,000 per year or all the income of the trust for the year, whichever is less. In 1984, Y has the following items of income and expense: $8,000 interest, $5,000 rental income, and $3,500 expense allocable to income. Y has trust accounting income and distributable net income of $9,500 and $8,700 cash remaining from current income available for distribution. The trustee pays A $8,700. In 1984, A is treated as a defined income beneficiary, and the entire credit is allocated to A. Had trust accounting income for 1984 been more than $10,000, A would have been treated as an annuitant for the year. As a result, none of the credit would be allocated to A, and the entire credit would have been allocated to Y under § 1.643(e)–2)(b)(3)(iv).

(b) *Other beneficiaries*—(1)(i) *In general.* In the case of a discretionary beneficiary (as defined in paragraph (b)(3)(i) of this section), the credit under section 31(b) will be allocated to the beneficiary in an amount equal to the tax withheld (as defined in paragraph (b)(3)(ii) of this section) multiplied by a fraction.

(ii) *Fraction.* Except as provided in (b)(2)(ii) of this section, the numerator of the fraction is the amount of the distribution to the beneficiary (as defined in paragraph (b)(3)(iii) of this section), and the denominator of the fraction is distributable net income for the taxable year minus tax withheld (as defined in paragraph (b)(3)(ii)).

(2) *Adjustments*—(i) *Defined income beneficiaries and discretionary beneficiaries.* If the trust has defined income beneficiaries as well as discretionary beneficiaries, the credit is allocated first to the defined income beneficiaries and the remaining credit is allocated to the discretionary beneficiaries. In that case, the credit shall be allocated to the discretionary beneficiaries by reducing the tax withheld (but not the tax withheld in the denominator of the fraction) by the amount of the credit allocated to the defined income beneficiaries, and the distributable net income taken into account in the denominator of the fraction shall be reduced by the amount of trust income allocable to the defined income beneficiaries.

(ii) *Distributions greater than denominator.* If the sum of the distributions to discretionary beneficiaries exceeds distributable net income minus tax withheld reduced by the income allocable to the defined income beneficiaries, the numerator of the fraction is the amount of the distribution to the discretionary beneficiary, and the denominator of the fraction is the sum of the amounts of all distributions to discretionary beneficiaries. If the trust has defined income beneficiaries as well as discretionary beneficiaries, then the amount of the credit to be allocated shall be determined by reducing the tax withheld by the amount of the credit allocated to the defined income beneficiaries.

(3) *Definitions.* For the purposes of this section—

(i) The term "discretionary beneficiary" means, for any taxable year, a beneficiary to whom an amount is properly paid, credited, or required to be distributed to the extent the distribution to the beneficiary for the taxable year is not described in parapraph (a)(1) of this section.

(ii) The term "tax withheld" means for any taxable year, the tax withheld under section 3451 with respect to interest, dividends, and patronage dividends received by an estate or trust during the year.

(iii) The term distribution to a discretionary beneficiary" means, for any taxable year, the amounts distributed to the beneficiary during the taxable year, including amounts treated as paid during the taxable year under section 663(b), but not including any distributions that are treated as made to a defined income beneficiary or an annuitant.

(4) *Special rules*—(i) In applying paragraph (b) of this section, an amount distributed to an annuitant (as defined in paragraph (a)(1) of this section) in satisfaction of the right to receive a fixed amount will not reduce the denominator of the fraction (distributable net income minus tax withheld).

(ii) The amount of the credit allocable to a beneficiary under paragraph

(b)(2)(ii) of this section shall not exceed an amount equal to one-ninth of the distribution to that beneficiary.

(iii) Any portion of the credit that is not allocated to the beneficiaries under paragraphs (a) and (b) of this section will be allocated to the estate or trust.

(iv) Distributions to a beneficiary shall be taken into account only to the extent that the distribution enters into the allocation of distributable net income.

(5) *Examples.* The provisions of paragraphs (b) (1) through (b) (3) of this section may be illustrated by the following examples:

Example (1). Under the terms of the governing instrument, the income of trust T is to be distributed to A in the trustee's discretion. Any income not distributed is to be accumulated. In 1984, T has the following items of income and expense: $20,000 interest, $3,000 rental income, and $3,000 expense allocable to income. T has trust accounting income and distributable net income of $20,000. T has $18,000 of cash remaining from current income available for distribution ($20,000 trust accounting income minus $2,000 tax withheld). The trustee distributes $10,000 to A in 1984. A is neither a defined income beneficiary nor an annuitant. Therefore, the amount of the credit allocable to A must be determined under the provisions of § 1.643 (e)-2(b)(1). Accordingly, $1,111 of the credit is allocated to A, computed as follows:

$$\frac{\$10{,}000 \text{ distribution to A}}{\$18{,}000 \text{ DNI less tax withheld}} \times \$2{,}000 \text{ tax withheld} = \$1{,}111$$

The balance of the credit ($889) is allocated to T.

Example (2). Under the terms of the governing instrument of X trust, $4,000 is payable to A each year from income of corpus, and any remaining income may be paid to B or accumulated in the trustee's discretion. In 1984, X has the following items of income and expense: $20,000 interest, $3,000 rental income, and $3,000 expense. X's trust accounting income and distributable net income are $20,000. X has $18,000 cash remaining from current income available for distribution ($20,000 trust accounting income less $2,000 tax withheld). In 1984, the trustee distributes $4,000 to A and $6,000 to B. None of the credit is allocable to be A, because A is an annuitant.

B is neither a defined income beneficiary nor an annuitant. Thus, the amount of the credit allocable to B is determined under § 1.643 (e)-2(b)(1). Accordingly, $667 of the credit is allocable to B, determined as follows:

$$\frac{\$6{,}000 \text{ payment to B}}{\$18{,}000 \text{ DNI less tax withheld}} \times \$2{,}000 \text{ tax withheld} = \$667$$

In determining the amount of the credit allocable to B, the denominator of the fraction is not reduced by the $4,000 annuity paid to A since A is not a defined income beneficiary. The balance of the credit, $1,333, is allocated to X.

Example (3). Under the terms of trust X, the income may be paid to A in the trustee's discretion. Any income not paid to A must be paid to B. In 1984, X earns $20,000 of interest, on which $2,000 of tax is withheld. X has trust accounting income and distributable net income of $20,000. X has $18,000 cash remaining from current income available for distribution (interest less tax withheld). The trustee pays $12,000 to A and $6,000 to B. Neither A nor B is a defined income beneficiary or an annuitant. Thus, the amount of the credit allocable to A and B is determined under § 1.643(e)-2(b). Accordingly, $1,333 is allocated to A, and $667 is allocated to B, determined as follows:

$$\frac{\$12{,}000 \text{ payment to A}}{\$18{,}000 \text{ DNI less tax withheld}} \times \$2{,}000 \text{ tax withheld} = \$1{,}333$$

$$\frac{\$6{,}000 \text{ payment to B}}{\$18{,}000 \text{ DNI less tax withheld}} \times \$2{,}000 \text{ tax withheld} = \$667$$

Example (4). Under the terms of trust Y, the trustee may distribute income and principal to A and B in the trustee's discretion. Any income not distributed will be accumulated. In 1984, Y has the following items of income and expense: $20,000 interest, $3,000 rental income, and $3,000 expense. Y has trust accounting income and distributable net income of $20,000. Y has $18,000 cash remaining from current income available for distribution (trust accounting income less tax withheld). In 1984, the trustee distributes $10,000 to A and B 9,000 to B. A and B are neither defined income beneficiaries nor annuitants, and the sum of the amounts distributed to A and B ($19,000) exceeds distributable net income less tax withheld ($18,000). Thus, the amount of the credit allocable to A and B is determined under § 1.643(e)-2(b)(2). Accordingly, $1,053 is allocated to A, and $947 is allocated to B, determined as follows:

Beneficiary A

$$\frac{\$10{,}000 \text{ payment to A}}{\$19{,}000 \text{ total payments}} \times \$2{,}000 \text{ tax withheld} = \$1{,}053$$

Beneficiary B

$$\frac{\$9{,}000 \text{ payment to B}}{\$19{,}000 \text{ total payments}} \times \$2{,}000 \text{ tax withheld} = \$947.$$

Example (5). Under the terms of the governing instrument of Z trust, $5,000 is payable to A annually from income and, to the extent income is insufficient, from principal. Any remaining income is payable to B. In 1984, Z has the following items of income and expense: $5,000 interest, $6,000 rental income, $1,000 trustee's commissions allocable to income, and $5,000 real estate expenses allocable to income. Z's trust accounting income and distributable net income are $5,000. Z has $4,500 cash remaining from current income available for distribution (trust accounting income less tax withheld). The trustee pays A $5,000. After the payment to A, no income remains to be distributed to B. Because A is an annuitant, none of the credit is allocated to A. B is a defined income beneficiary. Thus, the credit is allocated to B in an amount equal to the amount of trust income B would have received had there been no withholding. However, even if no tax had been withheld, B would not have received any income because trust income for 1984 equals the amount of the annuity payable to A. Consequently, none of the credit is allocated to B. Thus, the entire credit is allocated to Z.

Example (6). Assume the same facts as in example (5) except that $300 of the trustee's commission is allocable to principal. Z's trust accounting income is $5,300 and Z's distributable net income is $5,000. Z has $4,800 cash remaining from current income available for distribution (trust accounting income less $500 tax withheld). The trustee pays B nothing. Because A is an annuitant, no portion of the credit is allocable to A. B is a

defined income beneficiary. Had there been no withholding, B would have received $300, the amount of income that would have remained after the distribution to A. Thus, B is entitled to a credit of $300. The balance of the credit ($200) is allocated to Z.

Example (7). Assume the same facts as in example (5) except that $500 of the trustee's commission is allocable to income and $500 is allocable to principal. Z's trust accounting income is $5,500, and Z's distributable net income is $5,000. Z has $5,000 cash remaining from current income available for distribution ($5,500 trust accounting income less $500 tax withheld). The trustee pays $5,000 to A and nothing to B. Because A is an annuitant, no portion of the credit is allocable to A. B is a defined income beneficiary. Had there been no withholding, B would have received $500, the amount of income that would have been left after the distribution to A. Thus, B is entitled to a credit of $500.

Example (8). Assume the same facts as in example (7) except that any remaining income may be paid to B or accumulated in the trustee's discretion. The trustee pays B $300. Because A is an annuitant, none of the credit is allocable to A. B is not a defined income beneficiary or an annuitant. Accordingly, the credit is allocated to B under § 1.643(e)–2(b)(1), as follows:

$$\frac{\$300 \text{ payment to B}}{\text{4,500 DNI less tax withheld (See 1.643(e)–2(b)(4)(i))}} \times \text{\$500 tax withheld} = \$33$$

The balance of the credit ($467) is allocated to Z.

Example (9). Under the terms of the governing instrument, Z trust is required to pay 25 percent of the trust income currently to A. The trustee may pay the remaining income to B or accumulate it in the trustee's discretion. In 1984, Z has the following items of income and expense: $25,000 interest, $10,000 rental income and expense: $25,000 interest, $10,000 rental income, and $5,500 expenses allocable to income. Z has trust accounting income and distributable net income of $29,500. Z has $27,000 case remaining from current income available for distribution ($29,500 trust accounting income less $2,500 tax withheld). The trustee pays $6,750 to A, $5,000 to B, and accumulates the rest of the income. A is a defined income beneficiary entitled to 25 percent of the trust income. Therefore, $625 of the credit is allocated to A (25 percent × $2,500). B is not a defined income beneficiary or an annuitant. Therefore, $463 of the credit is allocated to B under § 1.643(e)–2(b)(1), computed as follows:

$$\frac{\$5,000 \text{ payment to B}}{\text{\$20,250 (DNI less tax withheld and amount paid to A)}} \times \text{\$1,875 tax withheld less credit allocated to A}$$

The balance of the credit, $912, is allocated to Z.

Example (10). Under the terms of the governing instrument, 25 percent of the income of T trust is payable to A. The balance of the income may be paid to B and C or accumulated in the trustee's discretion. The instrument also provides that $10,000 is payable to D out of principal when D reaches 25. In 1984, D reaches age 25, and T has the following items of income and expense: $25,000 interest, $10,000 rental income, and $5,500 expense allocable to income. T has trust accounting income and distributable net income of $29,500. In 1984, the trustee distributes $6,750 (25 percent × $27,000, trust accounting income less tax withheld) to A, $10,000 to B, $15,000 to C, and $10,000 to D. The credit for tax withheld ($2,500) is allocated as follows:

Beneficiary A

Beneficiary A is a defined income beneficiary entitled to 25 percent of the trust's income. Accordingly, 25 percent of the credit ($625) is allocated to A.

Beneficiaries B and C

Beneficiaries B and C are not defined income beneficiaries. Because the sum of the payments to discretionary beneficiaries B and C ($25,000) exceeds distributable net income reduced by the sum of tax withheld and the payment to A, a defined income beneficiary, the amount of the credit allocable to B and C is determined under § 1.643(e)–2(b)(2). (Because D is entitled to a fixed amount, $10,000, D is considered an annuitant, and the payment to D is not taken into account.) Thus, $750 is allocated to B, and $1,125 is allocated to C, as follows:

$$\frac{\$10,000 \text{ payment to B}}{\text{\$25,000 total payment to B and C}} \times \text{\$1,875 (tax withheld less credit allocated to A}$$

$$\frac{\$15,000 \text{ payment to C}}{\text{\$25,000 total payment to B and C}} \times \text{\$1,875 (tax withheld less credit allocated to A}$$

None of the credit is allocated to D because D is an annuitant.

(c) *Taxable year of allocation.* If a beneficiary has a different taxable year from the taxable year of the estate or trust, the year in which the credit is allocated to the beneficiary is the year the income to which the credit is attributable is includable in the beneficiary's income under § 1.652(c)–1, in the case of a beneficiary of a simple trust, or § 1.662(c)–1, in the case of a beneficiary of an estate or complex trust.

§ 1.643 (e)-3 Inclusion and deduction of the allocable portion of the credit under section 31 (b).

The portion of the credit allocated to a beneficiary of an estate or trust under § 1.643 (e)-2 is a deemed distribution to the beneficiary. The deemed distribution to the beneficiary. The deemed distribution will have the same character in the hands of the beneficiary as the income giving rise to the credit. The amount of the deemed distribution included in the beneficiary's income is limited by the amount of the estate's or trust's distributable net income as provided under section 652 (a) and 662 (a). See Subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Code for rules relating to treatment of excess distributions by trusts. An estate or trust is allowed a deduction for the deemed distribution. However, the deduction is limited by the amount of the estate's or trust's distributable net income as provided under sections 651 (b) and 661 (a).

§ 1.643 (e)-4 Special rule for charitable and nonresident alien individual beneficiaries.

(a) *In general.* In general, the credit under section 31 (b) is allocated to a charitable beneficiary or a beneficiary that is a nonresident alien individual (such beneficiaries being called "qualified beneficiaries" for purposes of this section) according to the provisions of paragraph (a) and (b) of § 1.643 (e)-2, and the beneficiary files for a refund or credit of its allocable share of the tax withheld in the same manner as any other beneficiary. However, if a qualified beneficiary elects, it may cede the portion of the credit allocable to it under § 1.643 (e)-2 (a) or (b) to the estate or trust, thereby entitling the estate or trust to file for credit or refund of the tax withheld. A qualified beneficiary must make the election pursuant to an agreement by the estate or trust to distribute to the beneficiary the amount the estate or trust would have distributed in the absence of withholding; the agreement must provide that the distribution will be made at a time such that the amount is considered a distribution within the taxable year of the estate of trust to which the credit relates that will reduce distributable net income under section 651 or 661. A qualified beneficiary makes the election by filing a certificate with an estate or trust on or before the due date (including extensions) of the tax return of the estate or trust for the year to which the election relates. In the case of a charitable beneficiary, the certificate must be signed by an officer, director, employee, member, or other person authorized to sign a return for the charity, and must include the following information: the name of the charity, the taxable year of the estate or trust to which the credit relates, a statement that the beneficiary is an organization meeting the requirements of paragraph (b)(1) of this section, and a statement that the charity is giving up to the estate or trust the charity's allocable share of the credit under section 31(b). In the case of a nonresident alien

individual beneficiary, the certificate must be signed by the beneficiary and must include the following information: the beneficiary's name, the address of the principal residence of the beneficiary, the taxable year of the estate of trust to which the credit relates, a statement that the beneficiary meets the requirements of paragraph (b)(2) of this section, and a statement that the beneficiary is giving up to the estate or trust the beneficiary's allocable share of the credit under section 31(b). The election is binding for the current and all subsequent taxable years until the qualified beneficiary files a certificate revoking the election with the estate or trust at least 30 days before the close of the taxable year of the estate or trust in which the revocation occurs. In general, the election may be revoked only with the consent of the estate or trust. However, an election must be revoked by the beneficiary within 30 days after the beneficiary ceases to satisfy the requirements of paragraph (b)(1) or (b)(2) of this section, as the case may be; in such a case, the consent of the estate or trust to the revocation of the election is not required. The revocation of an election by a beneficiary that has ceased to be a qualified beneficiary shall be effective on the first day of the taxable year of the estate or trust following the year of the estate's or trust's receipt of the revocation of the election. An election is revoked by delivery of a certificate to the trustee stating that the election under this section is revoked. The estate or trust must keep a copy of the certificate making or revoking the election.

(b) *Definitions.* For the purposes of this section—

(1) The terms "charitable beneficiary" and "charity" mean an organization exempt from tax under section 501 (a).

(2) The term "nonresident alien individual" means a nonresident alien individual who at no time during the taxable year is engaged in a trade or business in the United States and who does not have an election under section 6013 (g), relating to election to treat nonresident alien individual as resident of the United States, in effect.

(c) *Examples.* The provisions of paragraph (a) of this section may be illustrated by the following examples:

Example (1). Under the terms of the trust instruments, 50 percent of the income of trust T is required to be distributed currently to Z, a charitable organization described in section 501 (a). In 1984, T earns $10,000 interest, on which tax of $1,000 is withheld. T has trust accounting income and distributable net income of $10,000. T has $9,000 cash remaining from current income available for distribution (trust accounting income less tax withheld). T distributes $4,500 to Z. Under § 1.643 (e)–2 (a), Z is a defined income beneficiary and is entitled to one-half of the credit for tax withheld ($500). Z may file a claim for credit or refund of the tax.

Example (2). Assume the same facts as in example (1) except that Z files a statement with T, electing to cede its share of the credit to T under § 1.643(e)–4(a). In exchange, T agrees to distribute to Z the income that Z would have received had there been no withholding. Thus, T distributes $5,000 to Z in 1984. T is entitled to file a claim for credit or refund to the entire amount of the tax withheld.

Example (3). Under the terms of the trust instrument, the income of trust T may be paid to Y, a charitable organization described in section 501(a) and individual A or accumulated, in the trustee's discretion. In 1984, T earns $20,000 interest, on which tax of $2,000 is withheld. The trusee wants to pay Y $5,000 and A nothing. Y has not filed an election to cede the credit to T under § 1.643(e)–4(a). Recognizing that a distribution of income to Y will result in an allocation of a portion of the trust's credit under section 31(b) to Y, the trustee calculates the amount of the distribution so that the total of the distribution and the credit to Y will equal $5,000. Accordingly, the trustee distributes $4,500 to Y and allocates $500 of the credit to Y.

Example (4). Assume the same facts as in example (3), except that Y elects to cede its share of the credit to T under § 1.643(e)–4(a). Thus, the trustee is able to compute the amount of the distribution to Y without taking into account any allocation of the credit under section 31(b) to Y. Accordingly, the trustee distributes $5,000 to Y, recognizing that none of the credit will be allocated to Y.

Example (5). Under the trust instrument, $5,000 per year is payable to charity Z out of income or corpus of trust T. Z is an annuitant, and no portion of the credit under section 31(b) is allocable to Z. Thus, an election by Z to cede any part of the credit to T under § 1.643(e)–4(a) has no effect.

Example (6). Under the terms of the governing instrument, all the income of estate Z, which reports income using a calendar year, may be paid to A, a nonresident alien individual, or to B. In 1984, Z earns $10,000 of interest, on which tax of $1,000 is withheld. Z distributes $9,000 to A and nothing to B. Under § 1.643(e)–2(b)(1), A is entitled to the entire credit. A may make an election to cede A's share of the credit to Z pursuant to an agreement with Z that Z will make distributions to A in the amount it would have distributed in the absence of withholding. However, in order for the election to be effective for the estate's year ending December 31, 1984, A must make the election pursuant to an agreement that Z will pay to A the amount A would have received in the absence of withholding (an additional $1,000) on or before December 31, 1984. A may not make an election under an agreement that would permit payment of the $1,000 after December 31, 1984, because after that date, the $1,000 Z would have to pay A would not be treated as a distribution made in 1984. If, however, Z were a trust the election could be made under an agreement allowing the payment to be made on or before 65 days after December 31, 1984, because the payment of the $1,000 within 65 days after the close of Z's taxable year would be treated under section 663(b) as an amount distributed in 1984.

Par. 2. The following new § 1.671–5 is added immediately after § 1.671–4.

§ 1.671–5 Coordination with the section 31(b) credit.

In the case of a trust described in subpart E (section 671 through 679, relating to grantors and others treated as substantial owners), the credit under section 31(b) for tax withheld on interest, dividends, and patronage dividends is treated as an item of trust accounting income and is allocated in accordance with the allocation of trust accounting income. Thus, the credit will be allocated to the person who would have received the amount of income represented by the credit had there been no withholding. The portion of the credit under section 31(b) allocated to a beneficiary of a grantor trust is not included in the beneficiary's income to the extent the interest, dividends, and patronage dividends giving rise to the credit are included in the income of the grantor or another person under subpart E. In addition, the trust is not allowed a deduction for the amount of the credit allocated to the beneficiary to the extent the interest, dividends, and patronage dividends giving rise to the credit are included in the income of the grantor or another person under subpart E.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 83-9940 Filed 4-11-83; 4:51 pm]
BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-170-82]

Treatment of Credit for Tax Withheld on Interest, Dividends and Patronage Dividends Earned by an Estate or Trust; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the treatment of credit for tax withheld on interest,

dividends and patronage dividends earned by an estate or trust.

DATES: The public hearing will be held on June 21, 1983, beginning at 10:00 a.m. Outlines or oral comments must be delivered or mailed by June 7, 1983.

ADDRESS: the public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 111 Constitution Avenue, NW., Washington, D.C. the requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-170-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, NW., Washington, D.C. 20224, 202-566-3935, not a toll free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 643(d) of the Internal Revenue Code of 1954. The proposed regulations appear in the Proposed rules Section of this issue of the **Federal Register** (see FR Doc. 83-9940).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than June 7, 1983, an outline of the oral comments to be delivered at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-9941 Filed 4-11-83; 4:51 pm]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-100-78]

Creditability of Foreign Taxes; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the creditability of foreign taxes.

DATE: The public hearing will be held on June 23, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by June 9, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-100-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 901 and 903 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, April 5, 1983 (48 FR 14641).

The rules of § 601.601 (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than June 9, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-9942 Filed 4-13-83; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 51

[LR-227-81]

Definition of Removed From the Premises; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations concerning the definition of "removed from the premises" for purposes of the windfall profit tax.

DATES: The public hearing will be held on June 28, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by June 14, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commission of Internal Revenue, Attn: CC:LR:T (LR-227-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4996 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, January 14, 1983 (48 FR 1763).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than June 14, 1983 an outline of the oral comments to

be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-9929 Filed 4-13-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

[CGD 77-196]

Confined or Congested Waters

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Navigation Safety Regulations prescribe certain operating requirements for vessels navigating in "confined or congested waters". Since "confined or congested waters" have not yet been designated, those rules have not been implemented. A list of proposed confined or congested waters was published in the **Federal Register** on April 16, 1979. As a result of comments on that proposal, and in keeping with the Administration's goal of reducing Federal regulations, the Coast Guard is now proposing to delete the requirements for vessels operating in confined or congested waters.

DATED: Comments must be received on or before May 31, 1983.

ADDRESSES: Comments referencing CGD 77-196 should be submitted to Commandant (G-CMC/44), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying from 8:00 a.m. to 4:00 p.m. at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C., (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Falvey, U.S. Coast Guard Headquarters, (202) 426-4958.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 77-196), the name and address of the person submitting the comments, and give the reasons for the comment.

All comments received before expiration of the comment period will be considered before final action is taken on this proposal. No public hearings are contemplated, but one or more may be held, if requested by anyone raising a genuine issue.

Drafting Information

The principal persons involved in drafting this proposal are Mr. Tom Falvey, Project Manager, Office of Marine Environment and Systems, and Michael N. Mervin, Project Counsel, Office of Chief Counsel.

Discussion of Proposed Amendments

Section 164.15, Navigation underway: Confined and congested waters, of Title 33 of the Code of Federal Regulations was published on January 31, 1977, (42 FR 5956-5961). This section requires for self-propelled vessels of 1600 or more gross tons the following:

In the confined and congested waters described in § 164.16, the master or person in charge of each vessel underway shall ensure that—

(a) Propulsion machinery can respond immediately through its full operating range;

(b) The engine room, including the main engine control station even if it is not in the engine room, is manned to operate the propulsion machinery as required by paragraph (a) of this section:

(c) Persons are available to rapidly anchor the vessel in an emergency; and

(d) The automatic pilot device is not in use.

Section 164.16, List of confined or congested waters, was reserved when § 164.15 was published. On April 16, 1979, the initial list of confined or congested waters was published as a notice of proposed rulemaking in the **Federal Register** at 44 FR 22686. An analysis of the comments received in response to the proposed list and a review of the requirements of § 164.15 indicate that the benefits of the regulation would not outweigh the burdens of implementation.

No two areas that were proposed to be classified "confined or congested waters" are alike. The variation between many of the areas is extreme. Not only does the physical layout vary between areas, but the weather, currents, and type and density of vessel traffic varies within a given area.

Section 164.15 does not have the flexibility to deal efficiently with the many different conditions. For example, although § 164.15 requires that persons must be ready to rapidly anchor the vessel in an emergency, the water in some confined or congested areas is too deep to anchor. As time passes, traffic volume in some designated areas may decline, thereby making the area relatively less congested. The § 164.15 requirements would no longer be appropriate for such areas. On the other hand, areas *not* designated may become more congested or relatively more confined, and yet masters, relying on the published list of confined or congested waters, may forego taking needed precautions in those areas. There would be a continuing burden on the Coast Guard to maintain the list current, and a corresponding burden on the mariner to keep informed of the current list. The publications and charts required by existing regulations are considered adequate to draw the master's attention to the hazards in a particular area.

There have been several developments since the regulations were published.

The Coast Guard may establish special operating requirements for local areas. A regulated navigation area (RNA) may be established where it is felt that special regulations reflecting local conditions and tailored to meet a specific need are necessary. RNA's may be proposed by any individual to a Captain of the Port or District Commander.

The Standards of Training, Certification, and Watchkeeping, 1978, are about to be ratified by the international community. This convention, developed by the International Maritime Organization (IMO), provides guidance to Masters in keeping a navigational and engineering watch. It also provides standards for certification of ship's officers by the vessel's flag state.

The first set of amendments to the International Convention of Safety of Life at Sea, 1974, (SOLAS '74) has been completed and is now under consideration by IMO member states. Among other items, these amendments provide for: additional shipboard navigation equipment; restrictions in the use of automatic pilot in certain waters; a requirement for additional steering gear power units to be in operation in restricted waters; and specific steering gear drills and tests (several of these

items are to be the subject of a future rulemaking). Although these amendments would not be implemented before September 1984, mariners are aware of their content and may be following them as guides for prudent seamanship.

The Inland Navigational Rules Act of 1980 became effective in December, 1981. These rules, based on the International Regulations for Preventing Collisions at Sea, 1972, mandate certain behavior in narrow channels, during periods of restricted visibility, and in other high risk situations.

It is up to the master to assimilate all of these inputs and then decide what action is appropriate. If the vessel is operating in an area that could be classified as confined or congested waters, in most cases the actions listed in § 164.15 will be among the precautions taken. The Coast Guard believes that there is no demonstrable need to mandate those precautions by a regulation applicable to an extensive, but limited, list of designated "confined or congested" water.

Evaluation and Certification

This regulation proposes to eliminate a set of requirements that has never been implemented. This regulation has been evaluated under Executive Order 12291 and DOT Order 2100.5 of May 22, 1980, "Policies and Procedures for the Simplification, Analysis and Review of Regulations", and has been determined to be neither major nor significant. The economic inpact of this proposed regulation has been determined to be minimal, therefore, a full regulatory evaluation has been prepared. If the requirements had been implemented, some additional expense, in the form of overtime payments to existing crew members, may have been incurred. These would be insignificant in relation to normal vessel operating expenses, even in an extreme case for an individual vessel. For these reasons, in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 164

Navigation (water), Waterways.

PART 164—[AMENDED]

§§164.15 and 164.16 [Removed]

In consideration of the foregoing, it is proposed that Part 164 of title 33 of the Code of Federal Regulations be amended by removing §§164.15 and 164.16.

(Sec. 12, 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4))

Dated: March 24, 1983.

R. L. Brown,

Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 83-9654 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 145

[W-3-FRL 2345-8]

West Virginia Department of Natural Resources; Underground Injection Control; Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received complete applications from the State of West Virginia requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the applications are now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the Section 1422 application of the West Virginia Department of Natural Resources (WVDNR) to regulate Classes I, III, IV, and V injection wells and the Section 1425 WVDNR application to regulate Class II injection wells in cooperation with the West Virginia Oil and Gas Conservation Commission.

DATES: Requests to present oral testimony should be filed by May 17, 1983. The Public Hearing will be held on May 24, 1983 at 7:00 p.m. and will continue until 9:00 p.m. or the end of the testimony. Written comments must be received by May 31, 1983. EPA reserves the right to cancel the hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Comments and requests to testify should be mailed to S. Stephen Platt, (3WM42), Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. Copies of the application and pertinent material are available between 9:00 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region III, Water Supply Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, PH: (215) 597-9000

West Virginia Department of Natural Resources, Division of Water Resources, 1201 Greenbrier Street, East, Charleston, West Virginia 25311, PH: (304) 345-5935

Oil and Gas Conservation Commission, 1613 Washington Street, East, Charleston, West Virginia 25311, PH: (304) 345-3092

The hearing will be held in the Division of Water Resources Conference Room at 1201 Greenbrier Street, East, Charleston, West Virginia.

FOR FURTHER INFORMATION CONTACT: S. Stephen Platt, (3WM42), Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. PH: (215) 597-9017. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. At present, the State of West Virginia has 7 Class I wells, 319 Class II wells, 17 Class III wells, and no known Class IV wells. The latest inventory identified 169 Class V wells. Class V wells will be studied to assess whether further regulatory measures are required. In the meantime, Class V wells will be regulated under existing State procedures. The State of West Virginia does not intend to exempt any aquifers at this time.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Hazardous materials, Indians—Lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

These applications from the West Virginia Department of Natural Resources are for the regulation of all injection wells in the State. The applications include a description of the

State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the West Virginia Department of Natural Resources and Region III office of the Environmental Protection Agency.

Dated: April 4, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-9946 Filed 4-13-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 469

[W-4—FRL 2346-7]

Electrical and Electronic Components (Phase II)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; public hearing.

SUMMARY: Notice is hereby given of a hearing open to the public to discuss and receive comments on pretreatment standards recently proposed in the **Federal Register**. This hearing will be to elicit additional comments on the regulations proposed on March 9, 1983 (48 FR 10012). The comments will be used to further assist the Agency in finalizing technically sound and cost effective final regulations.

DATES: The public hearing has been scheduled for May 4, 1983.

ADDRESS: The public hearing will be held at the following address: Skyline Inn, South Capitol and I Streets, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Marvin B. Rubin, Project Officer for Public Participation, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M. St., S.W., Washington, D.C. 20460, Telephone 202-382-7113.

SUPPLEMENTARY INFORMATION: This public hearing is being held for the Electrical and Electronic Components (Phase II) point source category in accordance with Section 307(b) of the Clean Water Act, 33 U.S.C. 1317(b). Registration for the hearing will be held from 8:30 to 9:00 a.m. The hearing will start at 9:00 a.m. Following the registration period there will be a brief presentation by an EPA official on the development of these pretreatment standards. Opportunity will also be given throughout each session for the audience to submit written questions to the Presiding Officer. These questions will be addressed during a question and answer session at the conclusion of the oral testimony presentations for each category. Official transcripts will be available upon request.

Dated: April 8, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-9947 Filed 4-13-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6449]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule: Revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Plaquemines Parish, Louisiana.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 52475 on November 22, 1982 and in the *Plaquemines Gazette* on October 29, and November 5, 1982 and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at Commissioner Kirby's Office, Plaquemines Parish Courthouse, Point A La Hache, Louisiana 70083.

Send comments to: Commissioner Michael Kirby, Plaquemines Parish President, Parish Courthouse, Point A La Hache, Louisiana 70083.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Plaquemines Parish in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(A).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Louisiana	Unincorporated areas of Plaquemines Parish	Runoff Ponding	Approximately 1,000' north of the intersection of State Highway 39 and the Lorez Canal.	*2.0
			Approximately 100' northeast of the Olie Canal Pumping station.	*1.5
			Confluence of Agusta Canal with Barriere Bayou	*−1.0
			Approximately 4,000' west of Sarah along Sarah Canal	*1.5
			About 3,000' northwest of the Belle Chasse State School.	*1.0
			Intersection of State Road 3017 and the New Orleans and Lower Coast Railroad.	*−2.0
		Gulf of Mexico	Along east levee of the Mississippi River and State Highway 39, approximately 1,500 feet east of Woodlawn School.	*3.0
			Along east levee of the Mississippi River and State Highway 39 at Bertrandville Cemetery.	*3.0
			Just south of State Highway 39 at Braithwaite Park Airfield.	*5.5
			Along State Highway 23 at Boothville	*13.0
			Along State Highway 23 at Triumph	*14.0
			Along west levee of the Mississippi River and State Highway 23 at the Sunrise High School.	*14.0
			Just northwest of the bridge over the Doullut Canal at State Highway 23.	*14.0
			At Socola Canal and State Highway 23	*13.0
			At State Highway 23 and the Shell Road that leads to the Ferry Landing at West Point La La Hache.	*7.0
			Just south of the Mississippi west levee at Point Celeste.	*5.0
			Just west of Wilkinson Canal at Timber Canal	*0.0
			Entire Shoreline of Little Lake Batola	*20.0
			Confluence of Bayou Dulac and Pipeline Canal near Bay Sansbois.	*17.0
			Entire Shoreline of Carencro Bay	*19.0
			Along State Highway 23 at Venice	*13.5
			South of Port Sulpher at State Highway 23	*13.5
		Mississippi River	North of Port Sulpher at Mississippi River Mile 42	*14
			South of Ostrica Lock at Mississippi River Mile 25	*14
			North of Venice at Mississippi River Mile 11	*13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 40014128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: March 15, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-9707 Filed 4-13-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6505]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed modified base (100-year) flood elevations shown on your community's preliminary Revised Flood Insurance Rate Map. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). The proposed base flood elevations modify the base flood elevations shown on your community's presently effective Flood Insurance Rate Map.

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however,

impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in Feet (NGVD)	
				Existing	Modified
California	Dublin (city), Alameda County	Line J1	Center of intersection of Ironwood Drive and Irving Way.		*340
		Line J2	At confluence with Line J1		*332
		Line J3	25 feet upstream from center of Donohue Drive		*348
		Chabot Canal	50 feet upstream from center of Scarlett Court		*329
Maps available for inspection at City Hall, 6500 Dublin Boulevard, Dublin, California.					
Send comments to Honorable Peter Snyder, 6500 Dublin Boulevard, Suite 100, Dublin, California 94568.					
Colorado	City of Loveland (Larimer County)	Big Thompson River	100 feet upstream of centerline of Colorado and Southern Pacific Railroad.	*4,947	*4,948
			Intersection of South Taft Avenue and West 1st Street	(1)	*4,965
Maps available for inspection at the Office of the City Clerk, 410 East Fifth Street, Loveland, Colorado 80537.					
Send comments to the Honorable Raymond Reeb, Mayor, 410 East Fifth Street, Loveland, Colorado 80537.					
Oregon	City of Gresham, Multnomah County	Fairview Creek	Centerline of Stark Street	*243	*243
		Johnson Creek	50 feet downstream from the centerline of Liberty Avenue.	*321	*321
Maps available for inspection at City Hall, 1333 N.W. Eastman Avenue, Gresham, Oregon 97030.					
Send comments to Honorable Al Myers, Mayor, 1333 N.W. Eastman Avenue, Gresham, Oregon 97030.					
Pennsylvania	Center, township, Indiana County	Two Lick Creek	Downstream corporate limits	*981	*984
			Approximately 3,900' above downstream corporate limits.	*985	*987
Maps available for inspection at the Township Offices, R.D. 2, Neal Road, Homer City, Pennsylvania.					
Send comments to Honorable Ronald Vargo, Chairman of the Center Board of Supervisors, Township of Center, Box 293, R.D. 2, Neal Road, Homer City, Pennsylvania 15748.					
Pennsylvania	Homer City, borough, Indiana County	Two Lick Creek	Downstream corporate limits	*1,004	*1,005
			Confluence with Yellow Creek	*1,012	*1,015
			Upstream State Route 56	*1,015	*1,019
			Upstream corporate limits	*1,017	*1,020
		Yellow Creek	Upstream State Route 56	*1,017	*1,023
			Approximately 300' downstream of upstream corporate limits.	*1,020	*1,024
Maps available for inspection at the Borough Office, 30 East Wiley Street, Homer City, Pennsylvania.					
Send comments to Honorable Anthony T. Lenze, Borough Manager of Homer City, 30 East Wiley Street, Homer City, Pennsylvania 15748.					
Utah	City of Provo (Utah County)	Rock Canyon	1,000 feet northeast of the intersection of 2320 N Street and 1200 E Street.	#1	#1
Maps available for inspection at Provo City Offices, 351 West Center Street, Provo, Utah 84603.					
Send comments to Honorable James Ferguson, Mayor, 351 West Center Street, P.O. Box 1849, Provo, Utah 84603.					
Washington	Chelan County (unincorporated areas)	Alluvial fan flooding from Dry Gulch.	Intersection of Circle Street and Okanogan Avenue	(2)	#1
		Alluvial fan flooding from No. 1 Canyon.	Intersection of 5th Street and S. Western Avenue	#1	#1
		Alluvial fan flooding from No. 2 Canyon.	Intersection of S. Western Avenue and Cherry Street	#2	#1
			Intersection of Red Apple Road and No. 2 Canyon Road.	#2	#2
Maps available for inspection at the Planning Office, Courthouse Annex, 415 Washington Street, Wenatchee, Washington 98801.					
Send comments to Mr. John Wall, Chairman, Board of Commissioners, Chelan County Courthouse, Wenatchee, Washington 98801.					
Washington	Wenatchee (city) (Chelan County)	Alluvial fan flooding from Dry Gulch, No. 1 and No. 2 Canyons.	Intersection of Castlerock Avenue and Pearl Street	#1	#1
Maps available for inspection at the Community Development Office, P.O. Box 519, Wenatchee, Washington 98801.					
Send comments to Jim Lynch, Mayor, P.O. Box 519, Wenatchee, Washington 98801.					

[1]Area outside of base flood.
[2]Area of minimal flooding.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director.

Issued: March 24, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-9708 Filed 4-13-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6470]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 CFR 57069 on December 22, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Borough of Seaside Heights, Ocean County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Borough of Seaside Heights, Ocean County, New Jersey, previously published at 47 FR 57069 on December 22, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flod elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has not economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The following location descriptions have been amended to read as follows: The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

Source of flooding	Location	*Elevation in feet, national geodetic vertical datum
Barnegat Bay.	Shoreline north of Sheridan Avenue (extended).	*8
	Shoreline south of Sheridan Avenue (extended).	*7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 40014128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: March 23, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-9709 Filed 4-13-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 111 and 151

[CGD 82-096]

Unmanned Barges Carrying Certain Bulk Dangerous Cargoes

AGENCY: Coast Guard, DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to revise the rules for unmanned barges carrying certain bulk dangerous cargoes. The proposed rule corrects and adds electrical hazard class and group ratings to the list of cargoes. The proposed rule also corrects certain spelling errors. Finally, the provisions of Subchapter J, Electrical Engineering Regulations, are being modified to include barges carrying inorganic acids.

DATE: Comments must be received on or before May 31, 1983.

ADDRESS: Comments should be submitted to Commandant (G-CMC/44) (CGD 82-096), U.S. Coast Guard, Washington, D.C. 20593. The comments will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays at the Marine Safety Council (G-CMC/44), Room 4402, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Comments may also be hand delivered to this office.

FOR FURTHER INFORMATION CONTACT: Joseph J. Jakabcin, U.S. Coast Guard Headquarters, Telephone 202-426-6262.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include names and addresses, identify this notice as CGD 82-096 and the specific section of the proposal to which the comments apply, and give reasons for the comments. If the acknowledgement of receipt of a comment is desired, a self-addressed postcard should be enclosed. The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held if requested by anyone raising a genuine issue.

Drafting Information

The principal persons involved in drafting this document are Mr. Joseph J. Jakabcin, Office of Merchant Marine Safety, and Mr. Michael N. Mervin, Office of the Chief Counsel.

Discussion of the Proposed Regulations: The proposed rule would make changes to Table 151.05, Summary of Minimum Requirements. Specifically, many entries under the columns "Electrical hazard class-group" are now blank, incomplete, or incorrect. The proposed rule would modify these entries by listing the correct class and group, including, where appropriate, "NA" to indicate that the electrical rating is "Not Applicable". These ratings were developed from criteria established by the Coast Guard sponsored Electrical Hazards Panel of the Committee on Hazardous Materials,

Division of Chemistry and Chemical Technology, National Research Council, National Academy of Sciences. These criteria are in the public docket and are available for review by interested parties. The current edition of the National Electrical Code uses the National Academy of Sciences' criteria for establishing ratings and lists some of the same chemicals as in Part 151. To prevent conflict with Subchapter J, Electrical Engineering regulations, 46 CFR 110–113, provisions in Subpart 111.105, which apply to inorganic acid tankships, will be extended to include inorganic acid barges. Finally, the proposed rule corrects the spelling of six cargo names in Table 151.05.

Regulatory Evaluation

The addition of the approximately 61 electrical hazard class and group ratings updates and codifies existing Coast Guard policies. We believe there will be only a minimal economic burden on U.S. flag barges. In fact, since several ratings are to be reduced, there will be savings for new barges in some cases. About 1,080 barges are certified for the carriage of cargoes whose ratings are affected. We estimate that 90 percent of these existing barges carrying hazardous materials have no electrical equipment located in hazardous areas. This change, therefore, would have no economic effect on those barges. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification Analysis and Review of Regulations (DOT Order 2100.5 of 5–22–80).

Regulatory Flexibility Evaluation

These regulations primarily involve tankbarge fleets owned and operated by major corporations. Accordingly, it is certified that under the Regulatory Flexibility Act this rule will not, if promulgated, have a substantial economic impact on a significant number of small entities.

Comments on Specific Sections

Section 111.105–9 Explosion-proof equipment. Section 111.105–9(c) refers to tankships. To prevent conflict between provisions in Parts 111 and 151, the words "on a tankship" are deleted. This broadens coverage to include barges carrying inorganic acids.

Section 111.105–31 Flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F), liquid sulfur carriers, and inorganic acid tankships. To prevent conflict between provisions in Parts 111 and 151 for barges carrying inorganic acids the title is changed to read "Flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F), liquid sulfur, and inorganic acid carriers." Also, for the same reason, Sections 111.105–31 (a) and (1) should be extended to cover barges carrying inorganic acids.

Table 151.05 Summary of Minimum Requirements. Sixty-four electrical hazard class and group ratings in Table 151.05 need updating and correction. The rating for one cargo will be revised to I–A, twelve to I–B, nine to I–C, nineteen cargoes to I–D, and twenty-three cargoes to NA (Not Applicable). The requirements are either more lenient than those in the present Table 151.05 or are being established for the first time where Table 151.05 entries are missing or incomplete. Footnote 1, a reference to Group ratings, is no longer needed, and is to be reserved.

There are currently no electrical hazard ratings for inorganic acids aboard barges. Since inorganic acids often generate hydrogen gas when they attack metals, the Coast Guard assigned the rating of I–B to hydrochloric acid and other inorganic acids as a result of its reevaluation of the potential for hydrogen generation associated with the carriage of inorganic acids. The accumulation of hydrogen gas in deck areas is not considered a major problem due to its high rate of diffusion, low density and relatively slow rate of generation. Of major concern, however, is the possibility of acid leaking into a void or other enclosed space where hydrogen could be generated in hazardous concentrations. To permit electrical equipment in these spaces, it is necessary to require that such electrical equipment be safe in an atmosphere containing hydrogen. Therefore, the Coast Guard is modifying Sections 111 and 151 to permit electrical equipment rated I–B in spaces adjacent to tanks containing inorganic acids.

In Table 151.05, a few chemical names are misspelled. These are being corrected.

List of Subjects

46 CFR Part 111

Vessels.

46 CFR Part 151

Hazardous materials, Barges.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 46, Code of Federal Regulations as follows:

PART 111—ELECTRICAL SYSTEMS—GENERAL REQUIREMENTS

1. By revising § 111.105–9(c) to read as follows:

§ 111.105–9 Explosion-proof equipment.

* * * * *

(c) In a Group B atmosphere, if the cargo is an inorganic acid.

2. By revising the heading and paragraph (1) of § 111.105–31 to read as follows:

§ 111.105–31 Flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F), liquid sulfur, and inorganic acid carriers.

* * * * *

(1) Weather locations. A location in the weather, except on an inorganic acid carrier, must have only explosion-proof electrical equipment, purged and pressurized equipment, and through runs of armored or MI type cable if it is—

* * * * *

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

3. By amending Table 151.05, Summary of Minimum Requirements column entries under "Cargo name", replacing the old cargo names with the new cargo names, to read as follows:

Old	New
N-butyl acrylate	n-Butyl acrylate.
Isobutyl acrylate	iso-Butyl acrylate.
Butyraldehyde, (N)	n-Butyraldehyde.
Isobutyraldehyde	iso-Butyraldehyde.
Carbon bisulfide	Carbon disulfide.
2-Ethyl, 3-Propyl Acrolein	2-Ethyl-3-propyl acrolein.

4. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–A" for "Carbon disulfide."

5. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–B" for the following cargoes:

Chlorosulfonic acid
Hydrochloric acid
Hydrochloric acid, spent (15% or less)
Hydrofluoric acid
Hydrofluorosilicic acid (25% or less)
Hydrogen chloride
Hydrogen fluoride
Nitric acid (70% or less)
Oleum
Phosphoric acid
Sulfuric acid
Sulfuric acid, spent

6. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–C" for the following cargoes:

Allyl alcohol
n-Butyraldehyde
iso-Butyraldehyde
Crotonaldehyde
Epichlorohydrin

2-Ethyl-3-propyl acrolein
Formaldehyde Solution 37–50%
Furfural
Morpholine

7. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–D" for the following cargoes:

Acetic acid
Acetic anhydride
Ammonium hydroxide, not to exceed 28%
n-Butyl acrylate
iso-Butyl acrylate
Camphor oil (light)
Chlorobenzene
Chlorohydrins (crude)
Dichloropropane
Ethyl acrylate
Ethyl chloride
Ethylene diamine
Ethylene dichloride
Formic acid
Isoprene
Methyl acrylate
Motorfuel antiknock compounds
Propionic acid
Vinylidene chloride inhibited

8. By amending the Table 151.05 column entry under "Electrical hazard" to read "NA" for the following cargoes:

Acetone cyanohydrin
Adiponitrile
Aminoethyl ethanolamine
Aniline
Carbolic oil
Carbon tetrachloride
Caustic potash solution
Caustic soda solution
Chlorine
Chloroform
Cresols
Dichlorodifluoromethane
Diethanolamine
Diethylenetriamine
Diisopropanolamine
Ethylene cyanohydrin
Monochlorodifluromethane
Monoethanolamine
Monoisopropanolamine
Phenol
Phosphorous, elemental
Triethanolamine
Triethylene tetramine

9. By removing and reserving Footnote 1 to Table 151.05.

Footnotes:

[1] (Reserved.)

* * * * *

(46 U.S.C. 391a, 49 U.S.C. 1655, 49 CFR 1.46(t))

Dated: March 25, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard,

Chief, Office of Merchant Marine Safety.

[FR Doc. 83-9952 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-356; RM-4373]

FM Broadcast Stations in Minot, North Dakota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a fifth FM assignment to Minot, North Dakota, in response to a petition filed by Robert Gallaher.

DATES: Comments must be filed on or before May 23, 1983, and reply comments on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, Minot, North Dakota, MM Docket No. 83–356, RM–4373.

Adopted: March 23, 1983.

Released: April 8, 1983.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a petition for rule making filed by Robert Gallaher ("petitioner"), proposing the assignment of Channel 292A to Minot, North Dakota, as its fifth FM assignment. Petitioner stated that he or an entity of which he is a part will apply for the channel, if assigned. The channel can be assigned in full compliance with the minimum spacing requirements of § 73.207 of the Rules.

2. Since Minot, North Dakota, is within 230 kilometers (200 miles) of the U.S. Canadian border, the proposed assignment requires coordination with the Canadian Government.

3. In view of the fact that the proposal could provide a fifth FM service to Minot, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as follows:

City	Channel No.	
	Present	Proposed
Minot, N. Dak.	229, 246, 260, 287	229, 246, 260, 287, and 292A.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before May 23, 1983, and reply comments on or before June 7, 1983, and are advised to read the appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignements. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments official filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule*

Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-9008 Filed 4-13-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-357; RM-4379]

Radio Broadcast Services; FM Broadcast Stations in Killington, Vermont

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Class B FM Channel 287 to Killington, Vermont, as requested by First VT Women's Broadcasters. The proposal could provide a first local broadcast service.

DATES: Comments must be filed on or before May 23, 1983, and reply comments must be filed on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip Cross, Mass Media Bureau, (202) 632-5414.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Killington, Vermont)

MM Docket No. 83-357, RM-4379

Adopted: March 23, 1983.
Released: April 8, 1983.
By the Chief, Policy and Rules Division:

1. A petition for rule making was filed on February 7, 1983, by First VT Women's Broadcasters ("VT") to assign Class B FM Channel 287 to Killington, Vermont. VT states that it will apply for authorization to operate a station on the channel, if it is assigned.

2. VT seeks a Class B channel assignment. Class B stations are licensed in Zone I of the United States. However, Killington, is located in Zone II which is reserved for Class C assignments. Class C stations are authorized to operate with higher maximum power than Class B stations and have greater mileage separation requirements. Pursuant to § 73.211(c) of our Rules, the Zone in which a station is located is determined by the transmitter site, rather than the community of license. A transmitter site in Zone I which meets all spacing requirements for Channel 287, as a Class B assignment, may be located 11.5 miles south of Killington. However, VT proposes a transmitter site near the radio tower of station WRUT, Rutland, Vermont, in Zone II.

3. VT indicates that it will locate its transmitter in Zone I or seek a waiver of our Rules to operate a Class B station in Zone II. In so doing, it states that it will accept a grant of any construction permit on the condition that it maintains Class B facilities. On the basis that VT will either conform its station to the requirements of § 73.211(c) or seek a waiver thereof, the Commission believes that VT's proposal warrants consideration. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) as follows:

City	Channel No.	
	Present	Proposed
Killington, Vermont		287

Canadian concurrence is required.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before May 23, 1983, and reply comments on or before June 7, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Philip S. Cross, Mass Media Bureau, (202) 632-5414.

However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(1), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-9809 Filed 4-13-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-354; RM-4290]

Television Broadcast Stations in San Luis Obispo, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF television Channel 33 to San Luis Obispo, California, in response to a petition filed by William V. Johnson. The proposed assignment would provide for a second commercial television service to San Luis Obispo.

DATES: Comments must be filed on or before May 23, 1983, and reply comments on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (San Luis Obispo, California), MM Docket No. 83-354, RM-4290.

Adopted: March 23 1983.

Released: April 8, 1983.

By the Chief, Policy and Rules Division:

1. William V. Johnson ("petitioner") on December 30, 1982, submitted a petition for rule making requesting the assignment of UHF television Channel 33 to San Luis Obispo, California, as a second commercial television assignment. Petitioner stated that he or an entity of which he is a part, will apply for the channel, if assigned.

2. San Luis Obispo (population 34,252),[1] seat of San Luis Obispo County (population 155,345), is located approximately 260 kilometers (160 miles) northwest of Los Angeles. San Luis Obispo is presently assigned commercial Channel 6 and noncommercial educational Channel *15.

3. In support of his request, petitioner submitted 1981 population data. Petitioner also submitted 1981 statistics for San Luis Obispo County regarding total and per household spendable income and retail sales.[2]

4. We believe tht the petitioner's proposal warrants consideration. The proposal meets all spacing requirements and could provide for a second commercial television station at San Luis Obispo. Comments are invited on the proposal to amend the Television Table of Assignments, with regard to the following community:

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[1] Population figures are from U.S. Census 1980 Advance Report.

[2] Information was extracted from the *Standard Rate and Data Service, Inc.* of Skokie, Illinois.

City	Channel No.	
	Present	Proposed
San Luis Obispo, Calif	6+, *15+	6+, 15+, 33

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 23, 1983, and reply comments on or before June 7, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-9611 Filed 4-13-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-355; RM-4305]

Television Broadcast Stations in Fort Worth, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 52 to Fort Worth, Texas, in response to a petition filed by Dennis H. Owen. The assignment could provide Fort Worth with its fourth commercial television allocation.

DATES: Comments must be filed on or before May 23, 1983 and reply comments on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73606(b), Table of Assignments, Television Broadcast Stations (Fort Worth, Texas), MM Docket No. 83-355, RM-4305.

Adopted: March 23, 1983.

Released: April 8, 1983.

By the Chief, Policy and Rules Division:

1. A petition for rule making was filed January 6, 1983, by Dennis H. Owen ("Petitioner") seeking the assignment of UHF television Channel 43 to Fort Worth, Texas, as that community's fourth commercial television allocation. Petitioner indicates that he, or an entity

of which he is a part, will apply for the channel, if assigned.

2. Fort Worth (population 385,141),[1] the seat of Tarrant County (population 860,880), is located in northeast Texas approximately 50 kilometers (28 miles) west of Dallas. At the present time, Fort Worth is served by commercial television Stations KXAS (TV) (Channel 5+), KTVT (TV) (Channel 11−), KTXA (TV) (Channel 21−), and noncommercial educational Channel *31, for which applications are pending.

3. According to information supplied by petitioner, Fort Worth's economic base should be sufficient to support the proposed television assignment.

4. A Channel 43 assignment to Fort Worth would be short-spaced to the proposed assignment of Channel 58 to Dallas, Texas, in BC Docket No. 82–834 (RM–4202), since that proposal requires a minimum distance separation of 75 miles between UHF assignments that are 15 channels apart. However, a staff engineering study reveals that Channel 52 can be assigned to Fort Worth with a carrier offset, in lieu of Channel 43. The offset is necessary to comply with the requirements of § 73.610(b) of the Commission's Rules which, in this instance, requires a separation of 175 miles to co-channel Station KSBI (TV) in Oklahoma City, Oklahoma.

5. In view of the foregoing and the fact that the proposed television assignment would provide a fourth commercial television broadcast service to Fort Worth, Texas, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Fort Worth, Texas.	5+, 11−, 21−, and *31+.	5+, 11−, 21−, *31+, and 52+.

6. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 23, 1983, and reply comments on or before June 7, 1983, and are advised to read the Appendix for the proper procedures.

[1] Population figures are extracted from the 1980 U.S. Census, Advance Reports.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expect to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

Room at its headquarters, 1919 M Street, N.W., Washington, D.C.,

[FR Doc. 83-9810 Filed 4-13-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-350; RM-4354]

FM Broadcast Stations in Port St. Joe, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action herein proposes the substitution of Class C FM Channel 233 for Channel 228A at Port St. Joe, Florida, and modification of the Class A license for Station WGCV(FM), in response to a petition filed by Brown Broadcasting of Florida, Inc. The assignment could provide Port St. Joe with a first Class C FM station.

DATES: Comments must be filed on or before May 23, 1983, and reply comments on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: March 23, 1983.

Released: April 8, 1983.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Port St. Joe, Florida), MM Docket No. 83-350, RM-4354.

By the Chief, Policy and Rules Division:

1. A petition for rule making was filed January 19, 1983, by Brown Broadcasting of Florida, Inc. ("petitioner"), licensee of FM Station WGCV [1] (Channel 228A) in Port St. Joe, Florida, seeking the substitution of Class C Channel 233 for Channel 228A and modification of its license to specify operation on the Class C channel. The channel can be assigned consistent with the minimum mileage separation requirements of § 73.207(a) of the Commission's Rules.

2. In justification of its proposal, petitioner states that the improved facilities will enable it to substantially expand its service area.

3. In response to petitioner's request, we shall propose the substitution of channels at Port St. Joe and the modification of Station WGCV's license to specify operation on Channel 233 in lieu of Channel 228A. However, in conformity with Commission policy, as expressed in *Cheyenne, Wyoming*, 62 FCC 2d 63 (1976), should another interest in the assignment be expressed, the proposed modification could not be made and the channel, if assigned, would be open to competing applications.

4. An *Order to Show Cause* to the petitioner is not required since consent to the modification of its license is indicated by its request for the Class C channel.

5. In consideration of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Port St. Joe, Fla	228A	233

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 23, 1983, and reply comments on or before June 7, 1983, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comments which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later

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[1] Petitioner advises that it recently became the licensee of Station WGCV (as well as WJOE(AM) in Port St. Joe), by the Commission's approval of an assignment of license therefor (File Nos. BAPL-821028GN and BAPLH-821028GO), and now desires to improve its FM facility.

than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.145 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions § 1.420 of the Commission's Rules and Regulations, and original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-9815 Filed 4-13-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-351; RM-4361]

FM Broadcast Stations in Albion, Nebraska; Proposed Changes in Table of Assignments.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a first FM assignment to Albion, Nebraska, in response to a petition filed by Emanuel W. Skala.

DATES: Comments must be filed on or before May 23, 1983, and reply comments on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: March 23, 1983.
Released: April 8, 1983.

In the Matter of; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Albion, Nebraska) MM Docket No. 83-351, RM-4361.

By the Chief, Policy and Rules Division:

1. Emanuel W. Skala ("petitioner") on January 24, 1983, submitted a petition for rule making which seeks the assignment of Channel 224A to Albion, Nebraska, as its first FM assignment. Petitioner stated that he would apply for the channel, if assigned. The channel can be assigned in compliance with the provisions of § 73.207 of the Rules.

2. The petitioner submitted population, economic and community data in an effort to demonstrate a need for the requested assignment. However, in view of the action taken in *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982), these issues are no longer relevant to this type of proceeding.

3. In view of the fact that the proposal could provide a first local broadcast service to Albion, comments are invited on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Rules, as it pertains to the following community:

City	Channel No.	
	Present	Proposed
Albion, Nebraska		224A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before May 23, 1983, and reply comments on or before June 7, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend the* FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the

consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc. 83-9614 Filed 4-13-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-353; RM-4341]

TV Broadcast Stations in Ashland, Ky. Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a third television assignment to Ashland, Kentucky, in response to a petition filed by Stanley G. Emert.

DATES: Comments must be filed on or before May 23, 1983, and reply comments on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: March 23, 1983.

Released: April 8, 1983.

In the matter of: Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Ashland, Kentucky), MM Docket No. 83-353, RM-4342.

By the Chief, Policy and Rules Division:

1. Stanley G. Emert ("petitioner"), submitted a petition for rule making on January 11, 1983, requesting the assignment of UHF Television Channel 50 to Ashland, Kentucky, as a second commercial television channel. Petitioner stated that he, or an entity of which he is a part, will apply for the channel, is assigned.

2. Ashland (population 27,064),[1] in Boyd County (population 55,513), is located in eastern Kentucky, approximately 180 kilometers (112 miles) southeast of Cincinnati, Ohio. Ashland is presently assigned commercial Channel 61 and noncommercial educational Channel *25.

3. We believe that the petitioner's proposal warrants consideration. The proposed assignment meets all spacing requirements and could provide for a second commercial television station at Ashland. Comments are invited on the proposal to amend the Television Table of Assignments, with regard to the following community.

City	Channel No.	
	Present	Proposed
Ashland, Ky	*25-, 61+	*25-, 50-, 61+

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by a reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before May 23, 1983, and reply comments on or before June 7, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *Ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the TV Table of

Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporated by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-9612 Filed 4-13-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-352; RM-4304]

TV Broadcast Stations in Tyler, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 57 to Tyler, Texas, as its fourth television assignment, in response to a petition filed by Dennis H. Owen.

DATE: Comments must be filed on or before May 23, 1983, and reply comments on or before June 7, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

Adopted: March 23, 1983.

Released: April 8, 1983.

In the matter of: Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Tyler, Texas) MM Docket No. 83-352, RM-4304.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a petition for rule making filed January 6, 1983, by Dennis H. Owen ("petitioner") seeking the assignment of UHF television Channel 57 to Tyler, Texas, as its fourth television assignment.

2. Tyler (population 70,508),[1] seat of Smith County (population 128,366) is located in northeastern Texas, approximately 145 Kilometers (91 miles) southeast of Dallas.

3. Petitioner has submitted information in support of his request and expressed his interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria.

4. In view of the fact that Tyler could receive a fourth local television service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) for the following community:

City	Channel No.	
	Present	Proposed
Tyler, Texas	7,14+, *38	7,14+ *38, and 57.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 23, 1983, and reply comments on or before June 7, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, *it is proposed to amend* the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc. 83-9816 Filed 4-13-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 191

[Docket OPS-49; Notice 5]

Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports

Correction

In FR Doc. 83-8231, beginning on page 13450 in the issue of Thursday, March 31, 1983, the following changes should be made:

1. On page 13453, second column, the second line of § 191.5(a)(5) should read, "meet the criteria of subparagraphs (1),".

2. On page 13454, first column, the third line of § 191.9(c) should read, "respect to master meter systems or LNG".

3. On page 13454, second column, the last line of § 191.17(b) should read, "gathering lines or LNG facilities."

4. On page 13461, first column, the fourth line of the fourth paragraph should read, "the instructions, please write or call the".

5. On page 13465, first column, the seventh line of paragraph "4." should read, "Gas by Pipeline: Annual Reports and Incident Reports.' Each".

6. On page 13465, second column, the seventh from last line of the second column should read, " 'Cathodically protected' applies to both 'bare' ".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 48, No. 73
Thursday, April 14, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended: April 8, 1983

Permits (See 14 CFR 302.1701 et seq.)

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Apr. 4, 1983	41048	Northeast Imperial Airlines, Inc., c/o Barry B. Feiner, 605 Third Avenue, New York, New York 10016. Amendment to the Application of Northeast Imperial Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, supplying information in accordance with 14 CFR 204.5. Answers may be filed by May 2, 1983.
Apr. 6, 1983	41414	Northern Air Lines, Inc., c/o Lucinda Awerkamp, Awerkamp and McClain, 701 Broadway, Quincy, Illinois 62301. Application of Northern Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity authorizing it to engage in scheduled air transportation of persons, property and mail as follows: Between and among the terminal point Detroit, Michigan, and the following alternate terminal points: Boston, MA; Chicago, IL; Cleveland, OH; Milwaukee, WI; Newark, NJ; St. Louis, MO; and Washington, DC. Conforming Applications, Motions to Modify Scope and Answers may be filed by May 4, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-9904 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing Standard Foreign Fare Level

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. The SFFL thus computed becomes the benchmark for measuring the statutory nonsuspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in sec. 1002(d) of the Federal Aviation Act of 1958, as amended. Order 80-2-69 established the first interim SFFL and subsequent Order 83-2-27 established the currently effective two-month SFFL applicable through March 31, 1983.

Since the Board's authority to regulate interstate and overseas fares was sunset effective January 1, 1983, we will no longer publish a Standard Industry Fare Level (SIFL). Thus, the use of a published SIFL for a U.S./Canada/Mexico fare index is no longer an option. We have developed a SFFL index for U.S.-Canada fares based upon the cost experience of the U.S. carriers which provide service in the U.S.-Canada markets. A similar adjustment is not necessary for U.S.-Mexico fares since costs for such service are already reported in the Latin American entity.

In establishing the SFFL for the two-month period starting April 1, 1983 we have projected nonfuel costs based on the year ended September 30, 1982 and have determined fuel prices on the basis of experienced monthly fuel cost levels and reported weekly fuel cost trends.

By Order 83-4-47 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	1.1347
Latin America	1.2698
Pacific	1.2354
Canada	1.2999

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: Julien R. Schrenk, (202) 673-5298.

By the Civil Aeronautics Board: April 8, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-9910 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-4-56]

Aeronaves del Peru, S.A.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 83-4-56.

SUMMARY: The Board proposes to renew the foreign air carrier permits of Aeronaves del Peru, S.A. and Compania de Aviacion "Faucett," S.A., but to suspend the exercise of the authority granted by these permits until the Government of Peru fulfills its obligations under the U.S.-Peru Air Transport Services Agreement to permit Challenge Air Transport, Inc. to provide scheduled all-cargo service to Lima, Iquitos, and Talara, Peru.

Objections: All interested persons have objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than April 18, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 26637, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all affected carriers and the Departments of State and Transportation.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and renew and suspend the proposed permits.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Gaynes, (202) 673-5035, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 11, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-9906 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41320]

Classic Air, Inc.; Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled proceeding is assigned to be held on April 27, 1983, at 10:00 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., April 8, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83-9906 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41165]

Vacation Air, Inc.; Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on April 25, 1983, at 10:00 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., April 8, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83-9907 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41320]

Classic Air, Inc.; Hearing

Notice is hereby given that a hearing in the above-entitled proceeding is assigned to be held on April 27, 1983, at 10:00 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., April 8, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83-9908 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41044]

Frontier Flying Service Fitness Investigation; Cancellation of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter scheduled to be held on April 12, 1983, is hereby cancelled.

Dated at Washington, D.C., April 11, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-9911 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41165]

Vacation Air, Inc.; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on April 25, 1983, at 10:00 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., April 8, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83-9909 Filed 4-13-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Estimates of the Voting Age Population for 1982

In accordance with the requirements of the Federal Election Campaign Act Amendments of 1976, 2 U.S.C. 441a(e), notice is hereby given that the estimates of the voting age population for July 1, 1982, for each state, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories of Guam and the Virgin Islands are as shown in the following table.

These estimates have been certified to the Federal Election Commission.

Malcolm Baldrige,

Secretary of Commerce.

ESTIMATES OF THE POPULATION OF VOTING AGE FOR STATES AND SELECTED OUTLYING AREAS: JULY 1, 1982

[In thousands]

Area	Population 18 and over
United States	168,769
Alabama	2,812
Alaska	297
Arizona	2,049
Arkansas	1,642
California	18,239

ESTIMATES OF THE POPULATION OF VOTING AGE FOR STATES AND SELECTED OUTLYING AREAS: JULY 1, 1982—Continued

[In thousands]

Area	Population 18 and over
Colorado	2,219
Connecticut	2,370
Delaware	443
District of Columbia	494
Florida	7,987
Georgia	4,011
Hawaii	716
Idaho	655
Illinois	8,310
Indiana	3,926
Iowa	2,109
Kansas	1,761
Kentucky	2,625
Louisiana	3,020
Maine	824
Maryland	3,154
Massachusetts	4,366
Michigan	6,530
Minnesota	2,993
Mississippi	1,752
Missouri	3,629
Montana	570
Nebraska	1,145
Nevada	651
New Hampshire	697
New Jersey	5,534
New Mexico	937
New York	13,151
North Carolina	4,402
North Dakota	477
Ohio	7,818
Oklahoma	2,296
Oregon	1,938
Pennsylvania	8,876
Rhode Island	725
South Carolina	2,278
South Dakota	490
Tennessee	3,390
Texas	10,751
Utah	974
Vermont	376
Virginia	4,053
Washington	3,105
West Virginia	1,406
Wisconsin	3,451
Wyoming	347
Outlying Areas	
Puerto Rico	2,036
Guam	67
Virgin Islands	58

[FR Doc. 83-9805 Filed 4-13-83; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-588-091]

Certain Electric Motors From Japan; Final Results of Administration Review of Antidumping Duty Order

Correction

In FR Doc. 83-8751 beginning on page 14719 in the issue of Tuesday, April 5, 1983, make the following correction:

On page 14722, middle column, in the table, the time period for Yaskawa and Hitachi now reading "April 1, 1980 to November 30, 1981" should have read "April 1, 1980 to November 30, 1980".

BILLING CODE 1505-01-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program (NVLAP)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Withdrawal of preliminary finding of need to accredit laboratories that test window and and door products.

SUMMARY: In a notice published in the **Federal Register** on August 24, 1982 (47 FR 36875–36878) the National Bureau of Standards (NBS) requested public comments on its preliminary finding that there is a need to accredit laboratories that test window and door products. The comments received objected to the establishment of that laboratory accreditation program (LAP) which has led NBS to the conclusion that the preliminary finding of need should be withdrawn. Accordingly, NBS hereby announces the withdrawal of the Preliminary Finding of Need to Accredit Laboratories that Test Window and Door Products.

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, D.C. 20234 (301) 921–3431.

SUPPLEMENTARY INFORMATION:

Background

On January 21, 1982, the Department of Commerce published in the **Federal Register** (47 FR 3025–3026) for public comment a request from the Department of Housing and Urban Development (HUD), under the provisions of 15 CFR Part 7b, to establish a Laboratory Accreditation Program (LAP) for laboratories that test window and door products. Public comments received by HUD led it to the conclusion that the request should be withdrawn so that other interested parties could act as proponents of the proposed program. The notice announcing HUD's withdrawal decision was published in the **Federal Register** on May 28, 1982 (47 FR 23509–23510).

Following the decision by HUD to withdraw its request for the Window and Door LAP, The Associated Laboratories, Inc., Dallas, Texas, under the NVLAP procedures 15 CFR Part 7a, requested that NBS make a preliminary finding that there is a need to accredit laboratories that test window and door products.

On August 24, 1982, NBS published an announcement in the **Federal Register** (47 FR 36875–36878) of a preliminary finding of need to accredit laboratories that test window and door products and invited public comments over a 60-day period. That notice also established a 15-day period, to request an informal public hearing. No requests were received for a public hearing. A total of 19 written statements were filed in response to the preliminary finding of need. The written statements are available for inspection and copying in the Department of Commerce (DOC) Central Reference and Records Inspection Facility (CRRIF), Room 6622, Herbert C. Hoover Building (HCHB)(Main Commerce), 14th Street between E Street and Constitution Avenue, N.W., Washington, D.C. 20234. These written comments have been analyzed and considered. The result of this analysis is a document entitled, "Summary and Analysis of Comments on the Preliminary Finding of Need to Accredit Laboratories that Test Window and Door Products." (Summary and Analysis Document). That document, which lists the members of the public who provided written comments, is also available for inspection and copying at HCHB'S CRRIF mentioned above.

A summary of the analysis of the comments and the recommendation is presented below.

Summary of Analysis of Comments

Six respondents indicated support for the LAP, and eleven respondents objected to the establishment of the program.

One of the respondents to the NBS notice is the Architectural Aluminum Manufacturers Association. AAMA is a national trade association which represents approximately 260 firms engaged in the manufacture and sale of architectural aluminum building components and related products. AAMA presently sponsors a product certification program for aluminum prime windows, sliding doors and aluminum combination storm windows and doors. The 1982 AAMA Certification Program Directory lists 4 Administrators/Validators and 17 approved testing laboratories which conduct product testing for the 260 fims.

Under the product certification program the 4 Administrators/Validators are required to conduct periodic in-plant inspections to assure that the testing is performed in accordance with the ANSI/AAMA test procedures.

The ANSI/AAMA test procedures used in the certification program cover the following product categories:

1. Aluminum prime windows, sliding doors and aluminum combination storm windows and doors.

2. Primary windows and sliding glass doors required by the Federal Mobile

Home Construction and Safety Standard.

3. Swinging exterior passage doors required by the Federal Mobile Home Construction and Safety Standard.

AAMA submitted the following comment on the NVLAP proposed LAP: "AAMA, upon review feels that the best interests of the window and door industry and consumers would be best served by an independent, uniform laboratory accreditation system established and run by the private sector. AAMA has the in-house expertise to establish the procedures, criteria and organization to sponsor a laboratory accreditation program for window and door products."

The objectors, while opposed to the establishment of a program under NVLAP for accrediting laboratories that test window and doors did endorse the proposed establishment of a laboratory accreditation program in the private sector operated by AAMA in support of its product certification program for window and door products.

AAMA's representation of a large majority of the manufacturers of aluminum building products which are tested by the AAMA approved testing laboratories would leave little or no testing laboratories to enroll in a NVLAP accreditation program for laboratories that test window and door products. Therefore, initiation of the NVLAP LAP would be impractical and uneconomical.

The comments of all of the respondents are summarized in the "Summary and Analysis Document".

Conclusion

Based upon the decision of AAMA to establish a private industry sponsored laboratory accreditation program for laboratories that test window and door products and the views of the other objectors, NBS hereby announces the withdrawal of the preliminary finding of need to accredit laboratories that test window and door products.

Dated: April 8, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 83-9964 Filed 4-13-83; 8:45 am]

BILLING CODE 3510-13-M

[Docket No. 30124-17]

Revision to Federal Information Processing Standard 63, Operational Specifications for Variable Block Rotating Mass Storage Subsystems

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. On May 28, 1982, notice of a proposed revision to Federal Information Processing Standard (FIPS) 63 was published in the **Federal Register** (47 FR 23510) for public comment and sent to Federal agencies for comment. This notice proposed to remove the three device class specifications contained in FIPS 63 from that standard and to maintain those device class specifications as a separate report which will not be a part of the standard. Interested parties were invited to submit written comments concerning the proposed revised standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this proposed revision were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the revised standard as a FIPS, and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved this revised standard as a FIPS, and that the standard shall be published as FIPS publication 63-1. The original version of this standard became effective June 23, 1980, and the provisions from it which this revision retains continue in effect from that date. The changes made by this revision become effective April 14, 1983.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The original standard, FIPS 63, was approved by the Secretary on August 16, 1979 (44 FR 50078-50080) and was the subject of corrections and revisions announced in the **Federal Register** on August 31, 1979 (44 FR 51294), December 3, 1979 (44 FR 69317), and November 26, 1980 (45 FR 78746). This revised standard supersedes FIPS 63 in its entirety, including its subsequent corrections and revisions.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirement of the standard. Only the announcement portion of the standard is provided in this notice. Additional operational specifications are available in a separate report entitled, *Additional Operational Specifications for Variable Block Rotating Mass Storage Devices.*

Interested parties may purchase either paper or microfiche copies of this revised standard, including the technical specifications portion, from the National Technical Information Service (NTIS). The additional operational specifications are also available from NTIS. Specific ordering information from NTIS for this revised standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this revised standard may contact Mr. William Burr, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3723.

Dated: April 8, 1983.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 63-1

(Date)

Announcing the Standard for Operational Specifications for Variable Block Rotating Mass Storage Subsystems

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Operational Specifications for Variable Block Rotating Mass Storage Subsystems (FIPS PUB 63-1).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard defines the peripheral device dependent operational interface specifications for connecting variable block rotating mass storage equipment as a part of automatic data processing (ADP) systems. It is to be used together with FIPS PUB 60,* I/O Channel Interface and FIPS PUB 61,* Channel Level Power Control Interface. This standard, together with these two referenced standards, provides for full plug-to-plug interchangeability of rotating mass storage equipment as a part of ADP systems. Alternatives to this standard are being prepared and will be issued from time to time

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* Reference to FIPS PUB 60 and FIPS PUB 61 is intended to indicate the most recent revision of those publications designated respectively as FIPS PUB 60-1, 60-2, * * *, and FIPS PUB 61-1, 61-2, * * *

as FIPS PUBS. Their applicability provisions will indicate that they are alternatives to this standard, and as they are issued any of them may be used in place of this standard in appropriate applications.

The Government's intent in employing this standard prescribing Operational Specifications for Variable Block Rotating Mass Storage Subsystems is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer systems components at the time of initial system acquisition, as well as in system replacement augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the interface for connecting variable block rotating mass storage peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. Operational Specifications for Variable Block Rotating Mass Storage Subsystems. Additional operational specifications are available in a separate report entitled, *Additional Operational Specifications for Variable Block Rotating Mass Storage Devices*, which provides track format definition and specifies the sense information format and content for particular classes of variable block rotating mass storage devices.

Applicability. This standard is applicable to the acquisition of all rotating mass storage equipment whenever the use of Federal Information Processing Standard I/O Channel Interface (FIPS PUB 60) is required unless a FIPS PUB having an applicability provision stating that it is an alternative to this standard is appropriate to the application and the equipment conforms to that FIPS PUB.

Verfication of the correct operation of all interfaces that are required to confrom to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

Specifications. Affixed.

Copies of the technical specifications section of the standard will be available from the National Technical Information Service as described in the Where to Obtain Copies section below.

Implementation. The original version of this standard became effective June 23, 1980, and the provisions from it which this revision retains continue in effect from that date. The changes made by this revision become effective April 14, 1983.

All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Regulations concerning the specific use of this standard in Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This revised standard shall be reviewed by NBS within three years after its date of issue, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this publication, so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include: (1) A description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this standard is applicable and which does not conform to this standard prior to receipt of a waiver approval response from the Secretary.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standard Publication 63-1 (FIPS-PUB-63-1), Operational Specifications for Variable Block Rotating Mass Storage Subsystems. The supplement to FIPS PUB 63 entitled *Additional Operational Specifications for Variable Block Rotating Mass Storage Devices* may also be obtained from NTIS. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161, telephone: (703) 487-4650.

[FR Doc. 83-9870 Filed 4-13-83; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), will meet to discuss the Surf Clam/Ocean Quahog Fishery Management Plan (FMP), Atlantic Mackerel, Squid and Butterfish FMP, status of other FMP's, as well as discuss other fishery management and administrative matters.

DATE: The public meetings will convene on Wednesday, May 11, 1983, at approximately noon, and will adjourn at approximately 5 p.m., on Thursday, May 12, 1983.. The meetings may be lengthened or shortened depending upon progress on the agenda.

ADDRESS: The public meetings will take place at the Golden Eagle Inn, Beach Drive, Cape May, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council; Room 2115—Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: April 11, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-9957 Filed 4-13-83; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Anchovy Plan Development Team, Anchovy Subpanel and Scientific and Statistical Committee Anchovy Subcommittee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), has established an Anchovy Plan Development Team, an Anchovy Subpanel, and an Anchovy Subcommittee of its Scientific and Statistical Committee. These three groups will hold separate public meetings to discuss a draft proposed amendment to the Northern Anchovy Fishery Management Plan. The draft proposed agenda would change current methods for annually estimating the

anchovy spawning biomass and deriving optimum yield and harvest quotas based on the biomass estimate. Information developed at these meetings will enable the groups to formulate recommendations to the Council and Scientific and Statistical Committee Anchovy Subcommittee preparatory to releasing the proposal for review. Members of the public will be permitted to submit oral or written statements regarding matters on the agenda.

DATES: The separate public meetings will be held as follows:

1. Anchovy Subpanel—Monday, May 5, 1983, convening at approximately 10 a.m., in the Main Conference Room, Room 2032, Federal Customs Building, 300 South Ferry Street, Terminal Island, California;
2. Anchovy Plan Development Team—Friday, May 6, 1983, Convening at approximately 8 a.m. in the auditiorium of the Southwest Fisheries Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, California; and,
3. Scientific and Statistical Committee Anchovy Subcommittee—Wednesday, May 4, 1983, Convening at approximately 9 a.m., in the auditorium of the Southwest Fisheries Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive La Jolla, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: April 1, 1983.

Richard B. Stone,

Acting Chief, Operation Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-9960 Filed 4-13-83; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Groundfish Management Team; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), has established a Groundfish Management Team. The Team will address a number of groundfish issues which may require amendment to the Pacific Coast Groundfish Plan. These include gear marking and vessel identification requirements, an expanded area for joint venture processing; modification of the requirement to cease directed fishing for sablefish when 95% of the optimum yield is reached; trip limit provisions for Pacific ocean perch; the beginning date for the fishing year for fisheries covered by the plan; the removal of jack mackerel from the multi-species grouping; the addition of other rockfish species to the plan; review of status of stock reports; and other groundfish matters of importance to the Council. Members of the public will be permitted to submit oral or written statements regarding these matters. A public comment period is scheduled for 4 p.m., each day.

DATES: The public meetings will convene on Tuesday, April 26, 1983, and continue through to April 28, 1983, convening at approximately 8 a.m., and adjourning at approximately 5 p.m. each day.

ADDRESS: The public meetings will take place at the National Marine Fisheries Service, Southwest Fisheries Center, Tiburon Laboratory, 3150 Paradise Drive, Tiburon, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, telephone: (503) 221-6352.

Dated: April 11, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-9959 Filed 4-13-83; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), will meet to report on comments received during the Swordfish Fishery Management Plan (FMP) and Bluefish FMP public hearings; discuss the status of the Billfish FMP, review other FMP activities, as well as discuss other fishery management and administrative matters, as necessary.

DATES: The public meetings will convene on Monday, May 23, 1983, at approximately 1:30 p.m., and will adjourn on Thursday, May 26, 1983, at approximately noon.

ADDRESS: The public meetings will take place at the Holiday Inn, Kill Devil Hills, (Nags Head), North Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, telephone: (803) 571-4366.

Dated: April 11, 1983.

Richard B. Stone,

Acting Chief Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-9958 Filed 4-13-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Fire Support for Amphibious Warfare; Advisory Committee Meeting

The Defense Science Board Task Force of Fire Support for Amphibious Warfare will meet in close session on May 26-27, 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on May 26-27, 1983 the Task Force will consider the basic requirements for fire support during amphibious warfare operations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

April 11, 1983.

[FR Doc. 83-9951 Filed 4-13-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Long Endurance Aircraft; Advisory Committee Meeting

The Defense Science Board Task Force on Long Endurance Aircraft will meet in closed session on May 6, 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on May 6, 1983, the Task Force will consider the current long endurance aircraft programs.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

April 11, 1983.

[FR Doc. 83-9950 Filed 4-13-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83-CERT-007]

Stone Container Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Stone Container Corporation (Stone), 50 East Sixth Street, Franklin, Ohio 45005, filed an application on March 7, 1983 with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its paper mill facility in Franklin, Ohio, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Stone indicates that the volume of natural gas for which it request certification is approximately 360,000 Mcf per year. This volume is estimated to displace the use of approximately 2, 470,000 gallons (58,860 barrels) of No. 6 fuel oil (1.0 percent sulfur) per year.

The eligible seller is Ohio Gas Marketing Corporation, 3933 Price Road, Newark, Ohio 43055. The gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25325; and by Cincinnati Gas and Electric Company, 139 East Fourth Street, Cincinnati, Ohio, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Stone and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on April 8, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-9619 Filed 4-13-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-006]

United states Steel Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

United States Steel Corporation (USS), 600 Grant Street, Pittsburgh, Pennsylvania 15230, filed an application on March 7, 1983 with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its steel manufacturing facility in Lorain, Ohio, and at its chemical plant in Haverhill, Ohio, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division Docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, USS indicates that the volume of natural gas for which it requests certification is approximately 10.285 billion cubic feet (6.807 Bcf at the Lorain facility and 3.478 Bcf the Haverhill plant). This volume is estimated to displace the use of approximately 716,000 barrels of No. 6 fuel oil (1.53 percent sulfur) and approximately 16,979,000 gallons (404,262 barrels) of No. 2 fuel oil (0.50 percent sulfur) at the Lorain plant per year. At the Haverhill facility this volume is estimated to displace the use of approximately 535,000 barrels on No. 6 fuel oil (0.3 percent sulfur) and 797,000 gallons (18,976 barrels) of No. 2 fuel oil (0.5 sulfur) per year.

The eligible seller is Energy Buyers Service Corporation, P.O. Box 19832, Houston, Texas 77224. The gas will be transported by Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25325; Tennessee Gas Transmission, Inc., P.O. Box 254, Houston, Texas 77001; and Panhandle Eastern Pipeline Company, P.O. Box 1642, Houston, Texas 77001. Local distributors will be Columbia Gas of Ohio, 99 North Front Street, Columbus, Ohio 43215, and East Ohio Gas Company, P.O. Box 5759, Cleveland, Ohio 44101.

In order to provide the public with as much opportunity to participate this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Natural Gas Division, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D. C. 20585, Attention: Paula A Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to USS and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on April 8, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc 83-9820 Filed 4-13-83; 8:45 a.m.]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since Thursday, March 31, 1983. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary; or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last notice published Thursday, March 31, 1983.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., April 4, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-14	Refiners' Monthly Cost Report.	Revision	Month	Mandatory	Petroleum Refiners.	170	4,835	Data are used by the Energy Information Administration as inputs to various forecasting models. Data are published in the "Short Term Energy Outlook," and the Monthly Energy Review." Aggregated data are used by the Department of Commerce in calculating the real GNP.
FERC-525	Financial Audits	Extension	On Occasion	Mandatory	Electric Utilities, Natural Gas Pipeline companies and Oil pipeline companies.	81	4,860	Audits enable FERC to exercise surveillance over compliance with the Uniform System of Accounts and related regulations. Data are used to ensure and establish actual legitimate original costs and enable FERC to meet its responsibilities in establishing just and reasonable rates. Data are also used in rate proceedings and in formal investigations.

[FR Doc. 83-9862 Filed 4-13-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board (ERAB).

Date and Time: May 5-6, 1983—9:00 a.m.-5:00 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 8E-089, Washington, DC 20585.

Contact: Joan Snodderly, U.S. Department of Energy, Office of Energy Research (ER-6), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: Briefings and discussions of:

- DOE Budget Update
- Industrial Energy R&D
- Panel Progress Reports
- Magnetic Fusion Energy
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Joan Snodderly at the address or telephone number listed above. Requests must be received five days prior to the meeting and

reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 11, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-9894 Filed 4-13-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA83-2-21-000 (PGA83-3)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 7, 1983.

Take notice that Columbia Gas Transmission Corporation (Columbia) on April 5, 1983, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, as follows:

Eighty-seventh Revised Sheet No. 16
Twenty-ninth Revised Sheet No. 64

The enclosed tariff sheets, reflecting reduced rates applicable to sales rate schedules, bear an issue date of April 5, 1983 and an effective date of April 1, 1983.

Columbia states that the instant special PGA filing reflects a reduction of $83,330,095, or 25.97 cents per Dth, for the period April 1, 1983 through August 31, 1983. This reduction effectively eliminates, as of April 1, 1983, the impact of Columbia's March 1, 1983 PGA increase, and, in fact, results in a commodity rate which is 5.61 cents per Dth below that which was reflected in Columbia's March 1, 1983 PGA filing. These reductions are the result of (1) Reduced purchases from certain Southwest producers as the result of Columbia's declaration of force majeure effective April 1, 1983 under its contracts with such suppliers, (2) revised schedules for anticipated reductions in purchases from certain producers selling gas priced under multiple NGPA categories as the result of Columbia's notification to such producers that they may not reduce their deliveries of less expensive gas by more, on a proportionate basis, than their deliveries of more expensive categories of gas during periods when Columbia is reducing its purchases of gas below full deliverability and (3) a repricing of certain of Columbia's high-cost gas purchases to a lower level which is equivalent on a Btu basis to 110% of the price of No. 2 fuel oil.

Columbia respectfully requests that the Commission grant any waivers as it may deem necessary for the acceptance of this filing.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before April 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 83-9641 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-13-004]

El Paso Natural Gas Co.; Notice of Tariff Filing

April 7, 1983.

Take notice that on April 4, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing and acceptance, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Fourth Revised Sheet No. 89
Fourth Revised Sheet No. 90
Third Revised Sheet No. 91
Second Revised Sheet No. 91-A
First Revised Sheet No. 91-B
Second Revised Sheet No. 91-C
Second Revised Sheet No. 91-D
Second Revised Sheet No. 91-E
First Revised Sheet No. 91-F
Second Revised Sheet No. 91-G
First Revised Sheet No. 91-H
First Revised Sheet No. 91-I

On October 27, 1982, El Paso filed revised tariff sheets to its Original Volume No. 1 Tariff which, when accepted and made effective by the Commission, would have replaced the two forms of service agreement (Form A and Form B) presently included therein with a new, single form of service agreement. By order issued November 26, 1982 at Docket No. RP83-13-000, the Commission, among other things, accepted El Paso's filing and suspended its effectiveness until April 15, 1983, subject to alteration or deletion of terms not found to be just and reasonable. Thereafter, by order issued February 18, 1983 at Docket Nos. RP83-13-001 and RP83-13-002, the Commission modified its November 26, 1982 order to further condition acceptance of the new Form upon El Paso's retention of Forms A and B until all executed service agreements patterned after those forms have expired. El Paso states that the tendered revised tariff sheets, which are submitted in substitition for those filed October 27, 1982 in the instant proceeding, reflect new pagination which will serve to include the new Form in its Original Volume No. 1 Tariff while retaining Forms A an B therein, in compliance with the condition set forth in the Commission's February 18, 1983 order.

El Paso requests that the Commission grant any and all waivers which may be necessary to permit the tendered revised tariff sheets to be substituted for those filed on October 27, 1982 and that such tendered tariff sheets be permitted to become effective on April 15, 1983 subject to alteration or deletion, as provided for in the Commission's order issued November 26, 1982, as amended.

El Paso states that copies of the instant filing have been served upon all parties of record in Docket Nos. RP82-33-000, RP83-6-000 and RP83-13-000 and, otherwise, upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make a protest with reference to said tariff filing should, on or before April 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a

proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9842 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-34-001 (PGA, IP)]

Florida Gas Transmission Co.; Revised Tariff Filing

April 7, 1983.

Take notice that on April 4, 1983, Florida Gas Transmission Company (FGT) filed pursuant to Section 154.38 of the Commission's Regulations (18 CFR 154.38) its biannual purchase gas adjustment (PGA) filing with a proposed effective date of April 1, 1983. By letter order dated March 31, 1983, the Commission conditionally accepted FGT's filing, but directed it to file tariff sheets conforming to the rates in effect, as applicable to FGT, on its supplier, Southern Natural Gas Company's system. The revised tariff filing is composed of:

Original Volume No. 1

Substitute Revised Sheet No. 3-A
Substitute Revised Sheet No. 3-B

Original Volume No. 2

Substitute 20th Revised Sheet No. 128

Listed below is a table summarizing the effect of the Commission's letter order on FGT's jurisdictional rates to be effective April 1, 1983.

FGT JURISDICTIONAL RATES EFFECTIVE APR. 1, 1983

[In cents]

	As adjusted	As originally filed	Difference
Rate Schedule G (/ Therm)	33.204	33.242	(.038)
Rate Schedule I (/Therm)	32.404	32.442	(.038)
Rate Schedule T-3 (/ Therm)	43.68	43.69	(.01)

FGT states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, Original Volume Nos. 1 and 2 and interested state commissions and is being posted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, before April 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9843 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-435-000]

Central Maine Power Co.; Filing

April 8, 1983.

The filing Company submits the following:

Take notice that Central Maine Power Company (CMP) on March 31, 1983, tendered for filing an initial rate for transmission service to be provided to Commonwealth Electric Company by CMP over its Pool Transmission Facilities system.

CMP states that the rate applicable to the provision of transmission service is $7.63 per kW per year determined pursuant to the formula contained in Attachment 2, filed by CMP and pursuant to the formula in said rate will be updated annually as provided therein.

CMP requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Commonwealth Electric Company, the Maine Public Utilities Commission and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9829 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-437-000]

Commonwealth Edison, Co.; Filing

April 8, 1983.

The filing Company submits the following:

Take notice that on March 31, 1983, Commonwealth Edison Company (Commonwealth) tendered for filing proposed changes in its FERC Electric Service Tariff Rate 78 and Riders 7 and 8. The proposed changes would increase revenues from jurisdictional sales and service by $8,619,900 based on the 12 month period ending December 31, 1983.

Commonwealth requests an efective date of March 31, 1983.

Copies of the filing were served upon the customers affected by the filing and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9830 Filed 4-13-82; 8:45 am]

[Docket No. ER83-440-000]

Connecticut Light and Power Co.; Filing

April 8, 1983.

The filing Company submits the following:

Take notice that on April 1, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P, Western Massachusetts Electric Company (WEMCO), and together with CL&P, the

NU Companies) and Niagra Mohawk Power Corporation (Niagra). The Agreement, dated as of July 1, 1982, provides for the NU Companies to sell to Niagra excess energy from the systems of the Northeast Utilities Companies (system eneregy) that may be available on a daily basis (a transaction). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system energy to Niagra only when it was economic to do so. Niagra would only accept such offer it it was economical to do so.

CL&P states that Niagara will pay an energy reserevation charge to the NU Companies for each transaction in an amount equal to the megawatthours of system energy reserved for Niagara by the NU Companies during a transaction multiplied by the energy reservation charge rate negotiated prior to each transaction. Niagara will pay any energy charge to the NU Companies for each transaction in an amount equal to the megawatthours delivered by the NU Companies during such transaction times an energy charge rate. The energy charge rate is based on the heat rate, and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide energy at the time of a transaction.

CL&P requests an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon WEMCO and Niagara.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed or or before April 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9631 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-448-000]

Connecticut Light and Power Co.; Filing

April 8, 1983.

The filing Company submits the following:

Take notice that on April 4, 1983, the Connecticut Light and Power Company (CL&P) tendered for filing as an intitial rate schedule and agreement (the Agreement) between CL&P Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and Taunton Municipal Lighting Plant (Taunton). The Agreement, dated as of December 13, 1982 provides for the NU Companies to sell to Taunton excess power from the system of the NU Companies ("system power") that may be available on a daily or weekly basis (a transaction). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies would offer to sell such system power to Taunton only when it was economic for them to do so. Taunton would accept such an offer only if it was economic for Taunton to do so.

CL&P states that Taunton will pay a capacity charge to the NU Companies for each transaction in an amount equal to the kilowatthours of system capacity utilized by the NU Companies to supply system power to Taunton during a transaction, times a rate negotiated between the parties prior to each transaction, not to exced $0.0175 per kilowatthour. Taunton will also pay any energy charge to the NU Companies for each transaction in an amount equal to the kilowatthours provided by the NU Companies during such transaction times an energy charge rate. The energy charge rate is based on the heat rate and the replacement fuel price of the generating unit(s) which the NU Companies determine to be available to provide power at the time a transaction is agreed to by the parties.

CL&P requests an effective date of December 13, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to WMECO and Taunton.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 27, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9632 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-37-000]

Gulf States Utilities Co.; Application

April 8, 1983.

Take notice that on March 30, 1983, Gulf States Utilities Company filed an application seeking an order disclaiming jurisdiction under Section 204(a) of the Federal Power Act or an order authorizing the Applicant under Section 204(a) of the Federal Power Act to enter into a lease transaction of the River Bend Simulator and Training Center.

Any person desiring to be heard or to make any protest with reference to the said application should on or before April 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9633 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-38-000]

Idaho Power Co.; Application

April 8, 1983.

Take notice that on April 1, 1983, Idaho Power Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order authorizing the issuance and sale of up to 1,000,000 shares of Common Stock, par value of $5 per share, pursuant to the Applicant's Employee Stock Ownership Plan.

Any person desiring to be heard or to make any protest with reference to said application, should, on or before April 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with requirements of Commission's Rules of Practice and

Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9834 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-438-000]

Montana Power Co.; Filing

April 8, 1983.

The filing Company submits the following:

Take notice that the Montana Power Company (Montana) on March 31, 1983, tendered for filing its proposed Rate Schedule REC-83 applicable for sales to Big Horn County Electric Cooperative, Inc. (currently served under FERC Rate Schedule No. 40, Supplement No. 5), and Central Montana Generation & Transmission Cooperative, Inc. (currently served under FERC Rate Schedule No. 39, Supplement No. 10).

Montana states that based on the test year ending December 31, 1981, proposed Rate Schedule REC-83 would have provided it with increased revenues of $999,999 from sales to Big Horn and Central Montana. Montana further states that the rate increase has become necessary as a result of increasing cost being incurred in providing service to these customers.

Montana has proposed that rate Schedule REC-83 become effective with meter readings on or after June 1, 1983. However, in accordance with a Settlement Agreement entered in FERC Docket No. ER81-282-000, the Company has requested that the Commission suspend the effectiveness of the proposed rates for one month, effective with meter readings on or after July 1, 1983.

Copies of the filing were served upon Big Horn and Central Montana and upon the Montana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 26, 1983. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9835 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-5716-009, et al.]

Northern Natural Gas Producing Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

April 8, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiciton conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-5716-009, D, Mar. 21, 1983	Northern Natural Gas Producing Company Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, West Panhandle Field, Carson and Gray Counties, Texas.	(1)	
G-5716-010, D, Mar. 25, 1983	do	Northern Natural Gas, Company West Panhandle Field, Gray County, Texas.	(1)	
G-7193-004, D, Mar. 17, 1983	Union Oil Company of California, Union Oil Center, Box 7600, Los Angeles, California 90051.	Montana-Dakota Utilities Company, Worland Field, Big Horn & Washakie Counties, Wyoming.	(1)	
G-7642-005, D, Mar. 21, 1983	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, Stevens and Morton Counties, Kansas.	(1)	
G-15700-003, D, Mar. 17, 1983	Shell Offshore Inc., One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Eugene Island Block 18 Field, St. Mary Parish, Louisiana.	(1)	
G-17337-001, D, Mar. 18, 1983	Mobil Oil Exploration & Producing, Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Texas Gas Transmission Corporation, West Cameron Block 33, Offshore Cameron Parish, Louisiana.	(1)	
CI65-114-000, D, Mar. 21, 1983	do	Northern Natural Gas Company, North East Dover Field, Beaver and Ellis Counties, Oklahoma.	(1)	
CI65-164-000, D, Mar. 21, 1983	Sun Exploration and Production Company, formerly Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	Texas Eastern Transmission Corporation, Wharco-Schilling Area, Wharton and Colorado Counties, Texas.	(1)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI68-1302-000, D, Mar. 21, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Michigan Wisconsin Pipe Line Company, OCS Lease No. 0790, Offshore Louisiana.	(5)	
CI73-336-000, D, Mar. 23, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, East Cameron Block 271, *et al.*, Offshore Louisiana.	(10)	
CI83-174-000 (CI61-660), B, Mar. 21, 1983.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Texas Gas Transmission Corp., Terryville-Ruston Area, Lincoln Parish, Louisiana.	(11)	
CI83-175-000 (G-4996), B, Mar. 21, 1983.	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Natural Gas Pipeline Company of America, Clayton Field, Live Oak County, Texas.	(12)	
CI83-176-000 (G-10212), B, Mar. 21, 1983.	do	Florida Gas Transmission Company, Lockridge Field, Brazoria County, Texas.	(13)	
CI83-177-000 (G-7369), B, Mar. 21, 1983.	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	El Paso Natural Gas Company, Sprayberry Field, (Wrage-Hendrickson), Glasscock County, Texas.	(14)	
CI83-180-000, A, Mar. 24, 1983	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, California 94120.	Aminoil USA, Inc., Platform "Edith", Offshore, Huntington Beach, California.	(15)	14.73
CI83-181-000, B, Mar. 25, 1983	Kansas Petroleum Inc., 200 East First Street, Suite 100, Wichita, Kansas 67202.	Northwest Central Pipeline Corporation (Formerly Cities Service Gas Company), Boggs Field, Barber County, Kansas.	(16)	
CI77-307-002, D, Mar. 28, 1983	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Northwest Central Pipeline Corp., Alpar Tonkawa Field, Hemphill County, Texas.	(17)	
G-7110-001, D, Mar. 28, 1983	Mobil Oil Exploration & Producing, Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Texas Gas Transmission Corp., Maxie Field, Acadia Parish, Louisiana.	(18)	
G-11742-007, D, Mar. 28, 1983	do	Northwest Central Pipeline Corporation, Hugoton Field, Grant and Kearny Counties, Kansas.	(19)	

[1]Lease dated September 20, 1939 (T-37599) between Rose Duncan *et al.*, lessors and Northern Natural Gas Company, lessee, was assigned to Hoyt Hudspith on October 4, 1982, but effective as of July 15, 1982.

[2]On January 26, 1983, but effective as of December 4, 1982, Northern Natural Gas Producing Company assigned this lease (-3214) to Sidwell Oil and Gas Inc.

[3]Filing an Application to Partially Abandon Service for a Limited Period of Time to permit Union to use that portion of residue gas which the buyer has informed Union that it is no longer able to purchase at the present time.

[4]To release gas for irrigation fuel.

[5]At the Demand of the Louisiana State Mineral Board, Shell Offshore Inc. surrendered some 374.84 acres in Block 1666 rather than undertaking additional drilling on that acreage.

[6]Release of Oil, Gas and Mineral Lease dated May 21, 1973 wherein TransOcean Oil, Inc. (predecessor to MOEPSI) relinquished all of its rights, title and interest in State Lease No. 3532 unto the State of Louisiana.

[7]By assignment of Oil and Gas Lease, effective December 3, 1982, Mobil assigned to Crown Central Petroleum Co. all of its right, title and interest in and to that certain producing acreage fully described in said partial assignment of Oil and Gas Lease.

[8]Sun released all rights to economically recoverable reserves had been depleted.

[9]Farmout to Texoma Production Company.

[10]Insufficient reserves for development.

[11]Not used.

[12]Hattie Price Gas Unit Well #1 was plugged and abandoned December 12, 1973. All the leases within the unit are past primary term and no other production exists on subject unit.

[13]Property sold to Sage Energy Company.

[14]The Wrage-Hendrickson Lease was not assigned to MPTM since the lease was surrendered prior to the TransOcean acquisition. TransOcean's regulatory files indicates no filing was made for abandonment of service in Docket No. G-7389.

[15]Applicant is filing under Gas purchase Contract dated January 1, 1983.

[16]In order to negotiate a sale with another purchaser, and thus provide continuity of recovery, Seller needs to abandon service under the subject contract otherwise, Seller's lease is in jeopardy.

[17]Contract amended to delete gas well and casinghead gas from depths below 15,000 feet underlying Sections 59 and 78 in Block 41, HT&C R.R. Survey, Hemphill County, Texas.

[18]By Assignment dated as of January 18, 1980, TransOcean assigned to Hassie Hunt Exploration Company and William Exploration Company 72% of its right, title and interest in and to that certain producing acreage.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-9836 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-424-000]

Pacific Power & Light Co.; Notice of Filing

April 8, 1983.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on March 30, 1983, tendered for filing an application for an increase in rates for service to:

Proposed supplement No.	Customers	Existing FERC/FPC rate schedules	Proposed tariff service schedule
4	Town of Torrington, Wyo	126	PPL-4.
1	Montana-Dakota Utilities, Co	FERC Docket No. ER83-395-000	PPL-4.
4	City of Powell, Wyo	119	PPL-5.
4	Town of Deaver, Wyo	121	PPL-5.
3	Svilar Light & Power, Inc.	202	PPL-5.
2	Town of Basin, Wyo	222	PPL-5.

The proposed changes would increase revenues from jurisdictional sales and service by $2,246,581 based on the 12-month period ending Dcember 31, 1981.

Pacific states that the proposed changes have been filed to partially recover the cost of Pacific's investment, operating expenses and capital costs. Pacific requests an effective date of June 1, 1983.

Copies of the filing were served upon Public Service Commission, of the State of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 26, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9837 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-49-000]

Montana-Dakota Utilities Co.; Purchased Gas Cost Adjustment Filing

April 7, 1983

Take notice that on March 31, 1983, Montana-Dakota Utilities Company (MDU) submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

Original Volume No. 4

Twenty-third Revised Sheet No. 3A
First Revised Sheet No. 3B

First revised Volume No. 2

Eighteenth Revised Sheet No. 10
First Revised Sheet No. 10A

The proposed effective date of MDU's PGA filing is May 1, 1983.

MDU states that this tariff filing is being made pursuant to the Purchased Gas Cost Adjustment Provisions of its FERC Gas Tariff. The proposed changes include a gas cost adjustment increase of 54.397 cents per Mcf to Rate Schedules G-1, PR-1, and I-1, and X-1. In addition, MDU proposes a surcharge adjustment of 23.072 cents per Mcf applicable to Rate Schedules G-1, PR-1, and I-1. MDU is also filing, concurrently herewith, a petition for adjustment under 502(c) of the Natural Gas Policy Act of 1978 for relief from the incremental pricing supplement required to be part of this PGA filing by §§ 282.502 and 282.602(d) of the Commission's regulations.

Rate Schedule X-4 shows an increased gas cost adjustment of 70.626 cents per Mcf and a surcharge adjustment of 77.267 cents per Mcf. The proposed changes are supported by exhibits attached to the filing.

In addition, MDU states that, pursuant to an order issued by the Commission on February 19, 1982, in Docket No. CP81-316-000, MDU was authorized to commence off-system sales to Colorado Interstate Gas Company (CIG) and MIGC, Inc. under MDU's Rate Schedules X-5 and X-6, respectively. Eighteenth Revised Sheet No. 10 reflects a gas cost adjustment of 25.945 cents per Mcf for the sales to CIG under Rate Schedule X-5.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such Petition or protests should be filed on or before April 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-9645 Filed 4-13-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-2-29-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

April 7, 1983.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on March 30, 1983 Twenty-Sixth Revised Sheet No. 12, Twenty-Sixth Revised Sheet No. 15 and Ninth Revised Sheet No. 16 to Second Revised Volume No. 1, and Thirty-Second Revised Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective May 1, 1983, reflect a net increase of 21.8¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S-2 rate schedules, a net increase of 22.0¢ per dt in the commodity charge under the ACQ rate schedule, and a net decrease of 0.2¢ per dt in the delivery charge of the X-20 rate schedule.

Transco states that these changes have been computed in accordance with applicable tracking provisions contained in the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The tracking rate change under Transco's PGA clause amounts to an increase 22.0¢ per dt in the commodity or delivery charge in its CD, G, OG, E, PS, S-2 and ACQ rate schedules. This increase is comprised of a 4.8¢ per dt decrease in the Deferred Adjustment offset by a 26.8¢ per dt increase in the current gas cost adjustment. The decrease in the Deferred Adjustment represents the difference between the currently effective positive Deferred Adjustment of 19.3¢ per dt and the proposed positive Deferred Adjustment of 14.5¢ per dt required to eliminate, over the six-month period commencing May 1, 1983, the debit balanced of $53,009,565 accumulated in Transco's Unrecovered Purchased Gas Cost Account at February 28, 1983. Transco further states that its tracking rate change to reflect curtailment credits is a decrease of 0.2¢ per dt in the commodity or delivery charge under its CD, G, OG, E, PS, S-2 and X-20 rate schedules. This decrease represents the difference between the currently effecitve positive unit adjustment of 0.1¢ per dt and the proposed negative unit adjustment of 0.1¢ per dt, and is designed to eliminate, over the six-month period beginning May 1, 1983, the estimated credit balance in the Deferred Account as of April 30, 1983 in accordance with Section 20 of the General Terms and Conditions of Second Revised Volume No. 1 of Transco's FERC Gas Tariff.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before April 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-9646 Filed 4-13-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA-83-1-50-000]

Valley Gas Transmission, Inc.; Purchased Gas Cost Adjustment Filing

April 7, 1983.

Valley Gas Transmission, Inc. ("Valley"), on March 31, 1983 submitted for filing as part of its FERC Gas Tariff. Original Volume No. 1, its proposed "Twenty-Fourth Revised Sheet No. 2A". The proposed effective date is May 1, 1983.

Valley states that this tariff sheet is filed pursuant to its currently effective Purchased Gas Cost Adjustment Provision. The proposed changes involve Valley's "Current Surcharge Adjustment" and "Current Gas Cost Adjustment." The adjustments are supported by computations attached to the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission,

825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before April 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-9047 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation aCt (42 U.S.C. 6272), the following meeting notice is provided:

A meeting of the Industry Working Party (IWP) of the International Energy Agency (IEA) will be held on April 21 and 22, 1983, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:00 a.m. on April 21. This meeting is being held in order to permit attendance by representatives of the IWP at a meeting of the IEA Standing Group on the Oil Market (SOM) which is being held in Paris on those dates.

The agenda for the meeting is under the control of the SOM. It is expected that the following agenda will be followed:

1. Adoption of provisional agenda.
2. Today's oil market:
a. End March oil market assessment;
b. April update; and
c. Status report on publication of oil market assessment.
3. Review of the Financial Information System:
a. IWP report; and
b. Secretariat note.
4. Medium-term issues:
a. The futures market;
b. Oil price analysis; and
c. Structural *vs.* cyclical change and oil demand.
5. Product price controls' effect on oil demand:
a. Secretariat note.
6. Consultation with oil companies:
a. Mobil presentation, April 21, 3:00 p.m.; and
b. Petrofina presentation, April 22, 10:00 a.m.
7. Other business.
8. Date of next meeting.

Representatives of the IWP will be present during discussion of Item 3.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., April 8, 1983.

Craig S. Bamberger

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 83-9081 Filed 4-13-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL82-21-000]

Sacramento Municipal Utility District v. Pacific Gas & Electric Co., et al.; Order Interpreting Contract, Granting Motion for Summary Disposition, and Granting Requests for Declaratory and Other Relief

Issued: April 8, 1983.

On July 30, 1982, the Sacramento Municipal Utility District (SMUD), pursuant to section 306 of the Federal Power Act,[1] submitted a complaint against Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E) (collectively referred to as the "Companies") which alleges that the Companies have wrongfully refused to provide SMUD with transmission service over the Pacific Northwest Intertie (Intertie). SMUD requests an order declaring its right to receive up to 200 MW of firm transmission service over the Intertie pursuant to its contract with the Companies, and an order requiring that the Companies provide such service.

I. Background

The instant dispute involves the provisions of SMUD's contract with the Companies for transmission service over the Pacific Northwest Intertie.[2] Some brief background regarding the construction of the Intertie and the execution of SMUD's contract with the Companies may be helpful.

The Intertie is a series of extra-high-voltage (EHV) transmission lines connecting the Pacific Northwest with the Pacific Southwest. At the time the contracts for construction of the Intertie were signed in 1967, the Department of Interior, which supervised much of the planning of the Intertie, described the project as follows:[3]

> The Intertie package is composed of * * * major extra high voltage transmission lines * * * and attendant lines of lesser voltages that will form a huge grid capable of moving * * * power north or south according to seasonal diversities and peak demands.
>
> The Intertie lines will interconnect the predominantly hydropower-based Pacific Northwest, which has a peak load of about 15,000,000 kilowatts, with the predominantly thermal power-based Pacific Southwest, with a peak load of about 20,000,000 kilowatts. The Intertie involves the coordinated planning and operation of more than 50 utilities representing every segment of the electric utility industry.

Throughout years of debate prior to construction of the Intertie, a central question was whether greater benefits would be derived from a federally owned and operated intertie or a system built with significant private sector involvement.[4] Thus, when the Congress appropriated funds to the Bonneville Power Administration in 1963 to initiate federal construction of EHV transmission lines connecting federal hydro-electric projects in the Pacific Northwest and Pacific Southwest, it included the following caveat:[5]

> [c]onstruction shall not begin unless the Secretary of the Interior finds, after good faith negotiations with utilities and other entities interested in constructing any portion of the lines involved, that their proposals will

[1] 49 Stat. 856, 16 U.S.C. 825(e).

[2] SMUD is a municipal utility district engaged in the generation and distribution of electric power to retail customers within its boundaries, which encompass most of the County of Sacramento, and a small portion of the County of Placer, in California.

The Companies are investor-owned utilities which operate electric generation, transmission, and distribution systems in California. PG&E serves northern and central California, SCE serves central and southern California, and SDG&E serves primarily the City of San Diego and its surrounding area.

[3] Department of Interior, News Release (July 31, 1967).

[4] *See, e.g.*, Hearings on the Pacific Northwest Intertie before the Subcomm. on Irrigation and Reclamation of the Senate Committee on Interior and Insular Affairs, 86th Cong. 1st Sess. (April 8 and 9, 1959); Hearings on the Pacific Northwest Intertie before the Subcomm. on Irrigation and Reclamation of the Senate Committee on Interior and Insular Affairs, 86 Cong. 2nd Sess. (May 5, 1960); Hearings before the Subcomm. on Public Works of the House Committee on Appropriations, 88th Cong. 1st Sess., pt. 3 (June 3, 1963), pt. 4 (June 11, 1963); H.R. Rep. No. 590 to accompany Bill No. S. 1007, 88th Cong. 1st Sess. (July 25, 1963); Hearings before the Subcomm. on Public Works of the Senate Committee on Appropriations, 88th Cong. 2nd Sess. at 817-1138 (July 1 and 2, 1964).

[5] *See* Senate Report No. 746, 88th Cong. 1st Sess. 40 (December 5, 1963). The language in the Senate report regarding the Intertie was adopted by the Conference Committee Report, House of Representatives Report No. 1027, 88th Cong. 1st Sess. 24 (December 11, 1963).

not result in benefits to the national interest at least equal to those to be derived from Federal construction * * *.

To implement this Congressional directive, the Department of Interior entered into negotiations with non-federal entities regarding construction of an intertie, and developed a "federal yardstick proposal" by which to judge non-federal proposals.[6] PG&E, SCE, and SDG&E, acting collectively as the California Power Pool, submitted one of ten proposals received by the Department of Interior to construct portions of an intertie.[7] The Companies' original proposal, as well as revised proposals, included a commitment to provide transmission service over the intertie to various state and municipal entities in California, including SMUD.[8]

In June of 1964, the Department of Interior recommended an intertie plan which included the proposal submitted by the Companies,[9] and shortly thereafter Congress appropriated money to initiate the plan.[10] SMUD's contract with the Companies for transmission service over the Intertie was one of a number of contracts signed in 1967 as part of the Intertie package.

Under the contract (Article 9), the Companies agreed to provide SMUD: (1) up to 200 MW of firm transmission service (400 MW for the period April 1, 1971 through March 31, 1976) to transmit power and energy to or from any Pacific Northwest entity; and (2) interruptible transmission service for up to 225 million kWh of Northwest dump energy during any 12-month period. To change reservations of firm transmission service, the contract provides that SMUD must give the Companies five years advance notice (Article 10a), and further provides that SMUD may not request an increase in firm service after any previous decrease in such service (Article 10d).[11] However, the latter restriction, referred to as the "anti-yo-yo clause," provides a specific exception for changes required to accommodate changes in SMUD's allotment of Canadian Entitlement Power (CEP), that is, power from Northwest entities acquired pursuant to various Canadian Entitlement Exchange Agreements. The instant dispute focuses primarily on the operation of the anti-yo-yo clause.

II. The Dispute

In its complaint,[12] SMUD alleges that it has attempted to schedule transmission service over the Intertie in accordance with the terms of the contract, but has been refused service by the Companies. SMUD asserts that the refusal violates the parties' contract, commitments made by the Companies to the federal government as conditions to their ownership of portions of the Intertie, and license conditions imposed on PG&E in connection with the Stanislaus Nuclear Project, Unit 1.

Specifically, SMUD states that in accordance with the contract it gave the Companies initial notice and subsequent notices of transmission service to be used for the importation of CEP. However, in 1970, SMUD states that it was notified by its Northwest suppliers that its share of CEP would be totally withdrawn, and shortly thereafter notified the Companies that it would decrease its service under the contract to zero to accommodate the withdrawal. According to SMUD, in 1973 it attempted to schedule service for 1978 to transmit power purchased from the Bonneville Power Administration (non-CEP), but was advised by the Companies that its requested increase in service after a previous decrease in service violated the anti-yo-yo provision of the contract. Accordingly, SMUD was refused service.

SMUD states that it immediately disputed the Companies' interpretation of the contract contending that its requested increase in service after a previous decrease was specifically excepted from the anti-yo-yo provision because the decrease was made to accommodate a change in SMUD's allocation of CEP. The Companies maintained their position that SMUD is not entitled to the requested transmission service, and thus SMUD has filed its complaint before this Commission.

The Companies individually filed answers to SMUD's complaint which deny that their refusal to provide transmission service to SMUD is in any way wrongful. The Companies' principle argument is that the anti-yo-yo clause of Article 10d prohibits any increase in transmission service after any decrease in service, unless the increase is for the purpose of transmitting CEP. Therefore, the Companies argue that SMUD's requested increase in service (after a previous decrease) for the purpose of transmitting power from the Bonneville Power Administration is prohibited under Article 10d. According to the Companies, SMUD could have retained its reservation of Intertie capacity after its CEP allocation was withdrawn only by continuing to request and pay for such reservations.

A slightly different interpretation of Article 10d, which has been referred to as the "minor variations theory," is advanced by SDG&E and to some extent by PG&E. According to this theory, the CEP exception to the anti-yo-yo clause was intended to provide for minor variations in the approximate range of five to fifteen megawatts in SMUD's CEP allocation, but not to any major drop or subsequent rise in SMUD's Intertie reservation. SDG&E states that the parties' failure to foresee SMUD's eventual circumstances and limit the CEP exception accordingly, was a mutual mistake of fact justifying reformation of the contract.

The Companies also offer an argument unrelated to SMUD's use of CEP. The Companies point out that subsequent to its 1973 request to reserve 100 MW for 1978 to transmit power purchased from Bonneville Power Administration, SMUD, by letter dated September 17, 1975, sought to postpone its 100 MW reservation until 1980. Similar postponements were requested in 1976 and 1977, with the result that SMUD ultimately sought to commence its service on June 1, 1982.[13] The Companies contend that the requested postponements constituted *de facto* decreases in service which were followed by requested increases in service in violation of Article 10d.

Finally, the Companies argue that SMUD has waited too long to bring its complaint and, therefore, is barred from relief under the doctrine of laches. The Companies request that the Commission

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[6] *See* Department of Interior, *Report to the House and Senate Appropriations Committees on the Pacific Northwest Pacific Southwest Intertie* (June, 1964), (hereinafter "Department of Interior Report"). The federal yardstick proposal included, *inter alia*:

9. Willingness to share capacity equitably as between the Federal power marketing agencies and non-Federal utilities and agencies.

10. Terms of long-term wheeling contracts with the Government, which should be as nearly equivalent as practicable to Government ownership of the lines.

11. Availability of unused capacity in lines to utility systems desiring to use such capacity for exchanges and other purposes related to most efficient and economical use of energy sources. (DOI Report at 2).

[7] *See* Department of Interior Report at 4–6.

[8] *See* Department of Interior Report at 7.

[9] *See* Department of Interior Report at 19–31.

[10] *See* Senate Report No. 1326, 88th Cong. 2nd Sess. 33 (August 5, 1964). Hearings regarding the Department of Interior report were conducted by the Subcommittee on Public Works of the Senate Appropriations Committee, 88th Cong. 2nd Sess. at 817–1138 (July 1 and 2, 1964).

[11] The pertinent language of Article 10d is quoted at p. 8 *infra*.

[12] Notice of SMUD's complaint was published in the Federal Register with comments due on or before September 13, 1982. An extension of the time to file comments was later granted until September 30, 1982.

[13] The pleadings indicate that SMUD tendered a check for $28,000 as payment for the June, 1982 reservation. That check was returned to SMUD on the grounds that SMUD had relinquished its right to the requested service.

either: (1) Dismiss the complaint, or (2) issue a declaratory order stating that SMUD is not entitled to any amount of Intertie capacity.

On November 22, 1982, SMUD submitted a motion for summary disposition. In its motion, SMUD reviews each of the arguments advanced by the Companies and concludes that they are refuted by the plain, clear language of the contract, as well as by extrinsic evidence of the parties' intent. Accordingly, SMUD argues that the Commission should rule in its favor as a matter of law.

The Companies jointly filed a response to SMUD's motion on January 21, 1983,[14] identifying three issues which the Companies contend are material issues of fact precluding summary disposition. Specifically, the Companies state that material issues exist with respect to: (1) The effect under the contract of SMUD's reduction of its transmission service to zero in 1975; (2) the effect under the contract of SMUD's postponement of service notices; and (3) whether SMUD had reserved transmission service for *non-CEP* prior to its reduction of service to zero in 1975. In this pleading, the Companies allege for the first time that SMUD, in fact, previously received transmission service over the Intertie for power other than CEP. In addition, the companies state that they have not yet had an opportunity to conduct discovery, and thus summary disposition at this stage of the proceeding would be inappropriate.

On, February 14, 1983, SMUD filed a further response to the Companies which was accompanied by a motion for leave to file such a pleading. SMUD's pleading states that each of the issues raised by the Companies presents a question of law which should be disposed of on the pleadings in SMUD's favor. In addition, the pleading acknowledges that SMUD had taken service for non-CEP prior to reducing its service to zero, but states that under the terms of the contract its prior non-CEP service does not jeopardize its right to future transmission service.

On March 1, 1983, the Companies filed a response opposing acceptance of SMUD's latest pleading. The Companies state that SMUD's pleading is an attempt to alter its position and should be rejected as an unauthorized answer under the Commission's regulations.

[14] In response to a request filed by SCE on behalf of the Companies on December 1, 1982, the time to respond to the motion for summary disposition was extended to January 21, 1983.

III. Discussion

Article 10d of the parties' contract provides in pertinent part that:

> (d) Sacramento shall not, with respect to the amount of transmission service to be made available in any month under Article 9(a) and (b), be entitled to . . . an increase in such amount after any previous decrease in such amount of service. The limitations contained in this paragraph shall not apply to changes required to accommodate changes in amounts of Canadian Entitlement Power assigned by Northwest Entities to Sacramento pursuant to the provisions of the Canadian Assignment Agreement.

Article 10d prohibits a "yo-yoing" up and down of SMUD's transmission reservations, according to the Companies, to assure efficient planning of Intertie capacity. However, Article 10d excepts CEP transactions from this limitation for the purpose, according to SCE, of providing SMUD "flexibility in dealing with the uncertainty of the annual variations in the amounts of CEP to be made available to SMUD." (SCE, Answer to Complaint at 5).

Examining SMUD's conduct under Article 10d, we find that by notice given on March 26, 1971, SMUD reduced its service to zero for 1975 upon the withdrawal of its entire share of CEP, and by notice in 1973, SMUD requested an increase in service to transmit power of the Bonneville Power Administration for 1978. Thus, the pivotal issue in this proceeding is whether SMUD's requested increase in service is prohibitied by the anti-yo-yo clause because it followed a prior decrease in service, or whether SMUD's fluctuation in service is protected by the CEP exception of Article 10d. Assuming for the moment that prior to its reduction of service to zero in 1975 SMUD had reserved service under Article 9(a) and (b) *only* for CEP, we think it clear that SMUD is protected in this matter from operation of the anti-yo-yo clause.

To reach this conclusion, we need only look at SMUD's actions in light of the plain, clear language of the contract. It is evident that SMUD's 1971 notice to reduce its transmission service to zero was made for the reason that its allocation of CEP was withdrawn. Accordingly, so long as no non-CEP transmission had previously been provided to SMUD, its 1971 notice of a decrease in service was a change required exclusively to accommodate a change in SMUD's allotment of CEP and, as such, it falls squarely within the protection of the CEP exception of Article 10d. When SMUD sought to initiate service in 1973 for non-CEP, this action could be construed as an increase after a decrease only because of the prior reduction in CEP service which, as we have noted, is a protected transaction. Therefore, we find the SMUD's conduct would not trigger the anti-yo-yo clause but, rather, would be protected by the CEP exception of Article 10d.

The Companies' interpretations of Article 10d seek to impose restrictions on SMUD which are absent from the contract and which are inconsistent with its express terms. The Companies' principal argument is that under Article 10d, SMUD was not entitled to increase its service to transmit non-CEP after its prior reduction in service. The Companies contend that SMUD's decision to decrease service following the withdrawal of its CEP allotment was totally voluntary, and that SMUD should have continued paying for service, whether it used it or not, in order to maintain its right to future transmission service over the Intertie.

This argument must fail for two reasons. First, it is apparent that Article 10d recognizes the volatile and uncertain nature of SMUD's allocation of CEP by insulating CEP transactions from the prohibition against "yo-yoing" of service. It would be inconsistent with the clear language of Article 10d to suggest, as the Companies do, that SMUD could suffer a complete forfeiture of its right to transmission service over the Intertie as a result of a decrease in service made solely to accommodate a change in its allocation of CEP. This result is exactly what the CEP exception of Article 10d protects against.

Second, the Companies' assertion the SMUD was required to continue paying for service after its CEP allotment was withdrawn (but before any non-CEP reservation was made) in order to maintain any future right to service is simply unsupported in the contract. Although SMUD was obligated under Article 13a to pay for firm service reserved under Article 9(a) and (b), nothing in the contract required SMUD to continue payments after its CEP allotment was withdrawn, in the absence of any firm reservations, simply to maintain its right to make future reservations. Indeed, the Companies do not cite any section of the contract which embodies this requirement. Rather, they state that the parties' intent is reflected in the following passage of an October 7, 1965 letter from SMUD's general counsel to PG&E's counsel (*See* Exhibit H of SMUD's complaint):

> 4. At the time SMUD's allocation of CEP plus Pacific's allocation of CEP is reduced to less than the 200 mw guaranteed SMUD due to reductions made pursuant to the Assignment Agreement, SMUD may choose

to retain the full 200 mw. or any lesser amount, of transmission capacity by continuing payments therefor.

This passage, however, provides no help for the Companies. As explained by SMUD, the passage refers not to SMUD's reservation of capacity for CEP under Article 9,[15] but rather to certain purchases by SMUD of the Companies' allocation of CEP under Article 17 of the contract. Consequently, the limitation of Article 10d, by its own terms,[16] does not apply. Upon analysis, we find SMUD's reading of the quoted passage to be reasonable and consistent with other provisions of the contract, and we find the Companies' interpretation to be unsupported and inconsistent with express terms of the contract.[17]

Likewise, the Companies' "minor variations" theory, *i.e.*, that Article 10d sought to provide for only minor fluctuations in SMUD's allotment of CEP, is unsupported by and inconsistent with the express language of the contract. The Companies acknowledge that the language of the Article 10d exception is not limited to minor variation in SMUD's allotment of CEP, but state that the absence of such a restriction is a mutual mistake of fact justifying reformation of the contract. We disagree. Given its clear, ordinary meaning, Article 10d expressly excepts SMUD's reduction of service to zero upon withdrawal of its allotment of CEP from operation of the anti-yo-yo provision. We find no reason to modify the express language of the contract. Moreover, we note from the Companies' pleadings that at the time they entered into the contract they recognized that SMUD's allotment of CEP would eventually be withdrawn.[18] Thus, the Companies could have specifically provided for this circumstance in the contract had they so desired. For these reasons, we find that the CEP exception of Article 10d should be applied in accordance with its clear, express terms, and that the Companies' "minor variations" theory must be rejected.

We now turn to the Companies' argument, labeled by SMUD the "*de facto* decrease" theory, which suggests that SMUD's 1975, 1976, and 1977 letters requesting postponements in its non-CEP transmission service were *de facto* decreases in service which violate the anti-yo-yo provision of Article 10d. Without reaching the question of whether the requested postponements were *de facto* decreases in service, we find for two reasons that the letters do not preclude SMUD from receiving transmission service over the Intertie.

The first reason that the requested postponements cannot prejudice SMUD is that they were never given effect by the Companies. Indeed, the Companies contend that there was never a reservation of non-CEP in 1973 which SMUD could have sought to postpone. This point was explained by SDG&E in its answer to SMUD's complaint (at 8) as follows:

> SMUD made its first formal written request for the subject intertie capacity in May, 1973. Informal denials by and on behalf of the other parties followed, and a formal written denial was submitted to SMUD in April 1976. (note omitted).

The "formal written denial" cited by SDG&E was a response by PG&G to SMUD's 1975 request for postponement of its non-CEP service. Although the PG&E letter states that SMUD's request "is noted," it does so without prejudice to the Companies' position that SMUD is not entitled to any transmission service in the first instance.

Further evidence of the fact that the Companies declined to give the postponements effect is the simple fact that the Companies refused to provide service on June 1, 1982, the date that it would have been due had the postponements been made effective.[19] It is apparent that SMUD's request for service was not postponed by the Companies but rather, it was totally rejected by the Companies.

The Companies cannot have it both ways. They cannot be heard to say, on the one hand, that SMUD's requests were effective to postpone or reduce its reservations of transmission service, but on the other hand, contend that the requests were ineffective to create such reservations. The Companies rejected SMUD's requests to reserve or change its reservations of transmission service over the Intertie, and will not now be allowed to raise those requests as evidence of a decrease in reservations by SMUD.

The second reason that the requested postponements can not be construed as prejudicing SMUD is that by their own terms the requests were not to be made effective if they would be deemed decreases in service for purposes of Article 10d. Each request stated that:

> This alteration is subject to the condition that this change in dates is not to be deemed a "decrease in [the] amount of service" as that phrase is used in the first sentence of Article 10(d) of the aforesaid contract.

By making the alteration subject to the stated condition, SMUD chose to forego the alteration in the event that it would be deemed to trigger Article 10d and preclude any future transmission service. Give the Companies' stated interpretation of SMUD's action, the alteration, by its own terms, was made ineffective.

The Companies' final argument is that SMUD is barred from a remedy by the doctrine of laches. The Companies contend that SMUD was notified that the Companies would not provide service in 1973, and that SMUD impermissibly waited until July 30, 1982 to commence its action. We do not agree. SMUD has alleged a claim against the Companies in the nature of a continuing violation and has not requested any damages for past wrongdoing. Rather, SMUD has requested a declaration concerning its present rights under the contract and an order granting prospective relief. Furthermore, while SMUD perhaps should have anticipated the events that would follow and could have sought interpretive relief as early as 1973, it experienced no actual harm until the desired service was withheld in 1982. Under these circumstances, whether or not we would otherwise find it appropriate to apply the doctrine of laches, we do not believe that the doctrine is properly invoked in this case.

Having disposed of each of the arguments advanced in the Companies' answers to SMUD's complaint, we shall now consider whether summary disposition is appropriate as requested by SMUD. As we have noted previously, the Companies allege that three material issues of fact preclude summary disposition. However, two of the issues identified by the Companies, *i.e.*, the effect of SMUD's reduction of service to zero in 1975, and the effect of SMUD's postponement of service notices, are not questions of fact, but rather are questions of law which turn on the interpretation of contract terms. Moreover, these two questions have been discussed and disposed of previously in this order and, consequently, they do not stand in the way of summary disposition.

The only salient fact raised by the Companies concerns their contention that in 1971 and 1972 SMUD took

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[15] Article 10d specifically states that it applies only to transmission service made available under Article 9 (a) and (b).

[16] *See id.*

[17] *See* Articles 9, 10, and 13.

[18] *See*, SCE, Answer to Complaint at 6; SDG&E, Answer to Complaint at 5; Response to Motion for Summary Disposition at 18.

[19] Letter by H.P. Braun to William C. Walbridge, included in Exhibit J to SMUD's complaint. The letter provides in pertinent part that:

> This is in response to [SMUD's] check for transmission service for June 1982. . . [n]one of the California Companies agrees with Sacramento's claim that Sacramento has the right to such service. Therefore, I am returning Sacramento Municipal Utility District's check * * *.

transmission service under Article 9 (a) and (b) for non-CEP prior to reducing its service to zero in 1975. We note that this contention, which is raised for the first time in the Companies' response to SMUD's motion for summary disposition, directly contradicts the position taken in an earlier Company pleading. In its answer to SMUD's complaint (at 2), SDG&E states that it is an undisputed fact that through March 1975 SMUD used Intertie capacity "solely" to import CEP.

The Companies' latest allegation is relevant in light of our prior analysis of SMUD's rights under the contract. As we note at page 8, *supra*, our conclusion that SMUD is protected from operation of the anti-yo-yo clause is based on the assumption that SMUD did not reserve service for non-CEP entitlements under Article 9 (a) and (b) prior to reducing its service reservation to zero in 1975. If, however, SMUD had previously reserved service under Article 9 (a) and (b) for non-CEP, then its reduction of service to zero might not have been solely the result of its withdrawal of CEP and, consequently, its subsequent request to increase service to transmit power from the Bonneville Power Administration may be prohibited by the anti-yo-yo clause.

In its February 14, 1983 reply to the Companies, SMUD states that it does not dispute the underlying facts regarding its service for non-CEP; however, it does dispute the consequences of such service under the contract. Specifically, SMUD concedes that it took service for non-CEP in 1971 and 1972 and further acknowledges that such service made use of capacity which was reserved under Article 9 (a) and (b). However, SMUD states that the service, which was used to transmit interruptible Northwest dump energy,[20] did not result in an increase or decrease in its reservations under Article 9 (a) and (b), but merely made use of otherwise unutilized CEP capacity reservations which were previously made. Moreover, SMUD states that Article 13 of the contract, a billing provision, contemplates such purchases of Northwest dump energy and reflects the understanding that such transactions do not change the amount of service reserved under Article 9 (a) and (b).

[20] SMUD states that it used excess CEP capacity to transmit Northwest dump energy in 1971 and 1972 as follows:

March, 1971, 11,906,940 kWh
April, 1971, 9,901,440 kWh
May, 1971, 12,010,080 kWh
June, 1971, 630,300 kWh
March, 1972, 8,239,740 kWh
May, 1972, 20,121,850 kWh

Article 13 provides in pertinent part that:

> Sacramento shall compensate the Companies * * * (b) For transmission of Northwest Dump Energy, using service in *in excess* of that made available under Article 9 (a) and (b) and Article 17(b), at a charge of $0.0005 per kilowatt-hour delivered at Tesla Substation. (Emphasis added).

SMUD points out that Article 13b provides for a $0.0005 per kWh charge for the transmission of Northwest dump energy "in excess" of that made available under Article 9 (a) and (b), but contains no charge for such service made pursuant to Article 9 (a) and (b). According to SMUD, this reflects the fact that the transmission of Northwest dump energy pursuant to Article 9 (a) and (b) makes use of surplus capacity previously reserved and paid for. Therefore, SMUD concludes that its use of excess CEP capacity in 1971 and 1978 to transmit Northwest dump energy did not result in an increase or decrease in its reservations under Article 9 (a) and (b), and consequently did not violate the anti-yo-yo provision of Article 10d.

We concur with SMUD's interpretation of the relevant contract provisions and agree that SMUD's service for Northwest dump energy has not prejudiced its right to future transmission service over the Intertie. Reading Articles 9, 10, and 13 together, it appears clear that the use of excess capacity under Article 9 (a) and (b) to transmit interruptible Northwest dump energy is significant primarily for billing purposes, and that the scheduling of such service does not affect the level of SMUD's reservations under Article 9 (a) and (b). Accordingly, we find that SMUD's use of excess CEP capacity in 1971 and 1972 to transmit Northwest dump energy did not result in increases and decreases in service which would violate the anti-yo-yo provision of Article 10d.[21]

Having reached this conclusion, we find that there are no outstanding issues of fact or law which preclude granting SMUD's motion for summary disposition. Moreover, in the absence of any factual questions to be decided there is no need for additional time to conduct discovery as requested by the Companies.

[21] This conclusion is supported by the fact that SMUD's use of excess CEP capacity reserved under Article 9 (a) and (b) to transmit Nortnwest dump energy included a number of increases in service after previous decreases in service which, apparently, the Companies have never contended violate Article 10d. *See* note 20, *supra*. Moreover, it also appears that the Companies did not deem changes in SMUD's schedule of service for Northwest dump energy to require five years prior notice which is applicable to Article 9 (a) and (b) reservations, pursuant to Article 10a.

Based on the foregoing, we shall deny the Companies' request to dismiss the complaint, and grant SMUD's motion for summary disposition and requests for declaratory and other relief. In addition, SMUD's motion to accept its pleading of February 14, 1983, will be granted. Since we shall grant the requested relief on the basis of SMUD's contract claim, we shall not at this time address, or express any opinion on the questions of whether SMUD's requested relief may be supported by its claim that the Companies have violated commitments made to the federal government as conditions to their ownership of portions of the Intertie, or its claim that PG&E has violated requirements imposed in connection with the Stanislaus Nuclear Project, Unit 1.

The Commission orders:

(A) The Companies' request to dismiss the complaint is hereby denied.

(B) It is hereby declared that pursuant to its contract with the Companies dated August 1, 1967, SMUD is entitled to receive up to 200 MW of transmission service over the Intertie EHV lines at rates specified in the contract, and further, it ordered that the Companies shall provide SMUD such transmission service in accordance with the provisions of the contract as interpreted in the body of this order.

(C) SMUD's motion for summary disposition is hereby granted as provided in the body of this order.

(D) SMUD's motion to accept its pleading of February 14, 1983 is hereby granted.

(E) Docket No. EL82-21-000 is hereby terminated.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kennth F. Plumb,

Secretary.

[FR Doc. 83-9838 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA8-1-6-005]

Sea Robin Pipeline Co.; Revised Tariff Filing

April 8, 1983.

Take notice that on March 31, 1983, Sea Robin Pipeline Company (Sea Robin), pursuant to Paragraph III. B. 18 of the Stipulation and Agreement approved by Commission Order dated January 28, 1983 in *Sea Robin Pipeline Company*, Docket No. TA83-1-6 and *Pennzoil Producing Company, et al.*, Docket Nos. CI77-702-000, *et al.* and pursuant to Paragraph C of that January

28, 1983 Commission Order, submitted for filing Thirty-third Revised Sheet No. 4 to Sea Robin's FFRC Gas Tariff, First Revised Volume No. 1.

The Stipulation and Agreement, among other things, requires Sea Robin to make certain payments to Pennzoil Producing Company (as successor to Pennzoil Louisiana and Texas Offshore, Inc.) and Pennzoil Oil & Gas, Inc. and authorizes Sea Robin to adjust its rates to track such payments.

Sea Robin states that a copy of the transmittal letter, the revised tariff sheets and detailed computations in support of the filing are being mailed to all of United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211,385.214). All such petitions or protests should be filed on or before April 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-0839 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-11-002]

United Gas Pipe Line Co.; Revised Tariff Filing

April 8, 1983.

Take notice that on March 31, 1983, United Gas Pipe Line Company (United), pursuant to Paragraph III. B. 18 of the Stipulation and Agreement approved by Commission Order dated January 28, 1983 in *United Gas Pipe Line Company*, Docket No. TA83-1-11 and *Pennzoil Producing Company, et. al.*, Docket Nos. CI77-702-000, *et al.* and pursuant to Paragraph C of that January 28, 1983 Commission Order, submitted for filing Sixty-first Revised Sheet No. 4 to United's FERC Gas Tariff, First Revised Volume No. 1.

The Stipulation and Agreement, among other things, requires United to make certain payments to Pennzoil Producing Company (as successor to Pennzoil Louisiana and Texas Offshore, Inc.) and Pennzoil Oil & Gas, Inc. and authorizes United to adjust its rates to track such payments.

United states that a copy of the transmittal letter, the revised tariff sheets and detailed computations in support of the filing are being mailed to all of United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before April 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-0840 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[W-4-FRL 2346-3]

Designation of Volusia-Floridan Aquifer as Sole Source Aquifer

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing.

SUMMARY: A petition has been received by the United States Environmental Protection Agency (EPA) requesting determination that the Volusia-Floridan Aquifer System is the sole or principal drinking water source for Volusia County and that contamination of this source would create a significant hazard to public health.

DATE: The public hearing will be held on Wednesday, May 11, 1983 from 9:30 am to 12:00 noon and 7:00 pm to 9:00 pm.

ADDRESS: The public hearing will be held in the City Hall Council Chambers, 301 South Ridgewood Avenue, Daytona Beach, Florida.

FOR FURTHER INFORMATION CONTACT: Curtis F. Fehn, Chief, Groundwater Section, Water Supply Branch, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365; 404/881-3866.

SUPPLEMENTARY INFORMATION: Section 1424(e) of the Safe Drinking water Act provides that should EPA determine that the Volusia-Floridan Aquifer is a sole source aquifer, from the date of such determination, no commitment for Federal financial assistance (through grants, contracts, loan guarantees, etc.) may be entered into for any project which EPA determines may contaminate the aquifer through a recharge zone so as to create a significant hazard to public health. To aid in determination, EPA will hold a public hearing as stated above. Persons who intend to make statements at this hearing are urged to give notice of their intent by telephone or letter at least five (5) days before the hearing is scheduled. If possible, a written copy of the statement should be submitted at the time it is presented for inclusion in the record.

Dated: March 31, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-0856 Filed 4-13-83; 8:45 am]

BILLING CODE 6560-50-M

[SA FRL 23476]

Science Advisory Board; Research Outlook Review Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one-day meeting of the Research Outlook Review Subcommittee will be held on May 2, 1983 in Conference Room 2117, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. The meeting will begin at 9:00 a.m., and the estimated time of adjournment is 4:30 p.m.

The purpose of the meeting is to enable the Subcommittee to provide its advice and comment to the Agency on a number of draft research strategy documents, which will be used in the preparation of the *Research Outlook 1984*, which is EPA's annual update of its five-year research and development plan. The subcommittee will also be briefed on the budget strategy process

and its relationship to the research strategy process.

The meeting is open to the public. Any member of the public wishing to attend or obtain information should contact Dr. Terry F. Yosie, Staff Director, Science Advisory Board, by close of business on April 28, 1983. The telephone number is (202) 382–4126.

Dated: April 11,, 1983.

Harry C. Torno,

Acting Staff Director, Science Advisory Board.

[FR Doc. 83-9937 Filed 4-13-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) Henry J. Block's proposed acquisition of all voting securities of Queen City Savings and Loan Association	Oct. 28, 1982.
(2) HealthWest Foundation's proposed acquisition of all assets of La Palma Medical Development	Oct. 28, 1982.
(3) Thomas E. Nevis and Samuel A. Nevis' proposed acquisition of all voting securities of Pacific International Rice Mills, Inc	Oct. 28, 1982.
(4) Jones International, Ltd.'s proposed acquisition of certain assets of Osk Industries Inc	Oct. 28, 1982.
(5) Western Union Corporation's proposed acquisition of all voting securities of E. F. Johnson Company	Oct. 28, 1982.
(6) United Telecommunications, Inc.'s proposed acquisition of all voting securities of Aero-Flow Dynamics, Inc	Oct. 28, 1982.
(7) Northwestern Mutual Life Insurance Company's proposed acquisition of all assets of The Standard of America Financial Corporation and all voting securities of Standard of America Life Insurance Company.	Oct. 28, 1982.
(8) Macfield Texturing, Inc.'s proposed acquisition of all voting securities of E. T. Holding, Inc	Oct. 28, 1982.
(9) Control Data Corporation's proposed acquisition of all voting securities of Central Savings Association	Oct. 28, 1982.
(10) Corporate Property Investor's proposed acquisition of all assets of Aurora Mall Associates	Oct. 29, 1982
(11) Masco Corporation's proposed acquisition of all voting securities of Marvel Metal Products Company	Nov. 2, 1982.
(12) Transamerica Corporation's proposed acquisition of voting securities of Fred S. James & Company, Inc	Nov. 15, 1982.
(13) Beneficial Corporation's proposed acquisition of certain voting securities of IntraWest Financial Corporation	Nov. 5, 1982.
(14) Tosco Corporation's proposed acquisition of all voting securities of AZL Resources, Inc	Nov. 4, 1982.
(15) Tosco Corporation's proposed acquisition of certain voting securities of AZL Resources, Inc	Nov. 4, 1982.
(16) Gulf & Western Industries, Inc.'s proposed acquisition of certain voting securities of Hammermill Paper Company	Nov. 8, 1982.
(17) Royal Insurance PLC's proposed acquisition of all voting securities of Milbank Mutual Insurance Company	Nov. 8, 1982.
(18) Combined International Corporation's proposed acquisition of all voting securities of Rollins Burdick Hunter Company	Nov. 9, 1982.
(19) Transamerica Corporation's proposed acquisition of voting securities of Fred S. James & Company, Inc	Nov. 15, 1982.
(20) Transaction Number 83-0140 Southmark Corporation's proposed acquisition of all voting securities of American National Corporation	Mar. 17, 1983.
(21) Transaction Number 83-0146 The Firestone Tire and Rubber Company's proposed acquisition of certain assets of J. C. Penney Company, Inc	Mar. 17, 1983.
(22) Transaction Number 83-0164 John Mowlem & Company's PLC proposed acquisition of all voting securities of Buchler, Ltd., Adolph I. Buchler, Inc., (Mrs. Mignon B. Albrecht, UPE).	Mar. 21, 1983.
(23) Transaction Number 83-0180 VMS Realty Partners' proposed acquisition of all voting securities of Hotel Park Sheraton, Incorporated (International Telephone and Telegraph Corporation, UPE).	Mar. 31, 1983.
(24) Circle K. Corporation proposed acquisition of certain voting securities of Nucorp Energy, Inc	Jan. 11, 1982.
(25) MNC Resources, Incorporated's proposed acquisition of all voting securities of the Swift Group, Inc	Jan. 16, 1982.
(26) Edward J. DeBartolo and Edward J. DeBartolo, Junior's proposed acquisition of certain voting securities of DeBartolo, Inc	Jan. 22, 1982.
(27) Norfolk and Western Railway's proposed acquisition of certain voting securities of Piedmont Aviation, Inc	Jan. 22, 1982.
(28) Sealed Power Corporation's proposed acquisition of all voting securities of Kent—Moore Corporation	Jan. 25, 1982.
(29) Philbro Corporation's proposed acquisition of all assets of Pinkert Steel Company	Feb. 8, 1982.
(30) Essam M. Khasboggia proposed acquisition of all voting securities of Finn Moller (Ossis Petroleum) and USA Petroleum Corp	Mar. 4, 1982.
(31) Companies Generale d' Electricite's proposed acquisition of certain assets of Gould, Inc	Apr. 22, 1982.
(32) Industrial National Corporation acquisition of certain assets of Manufacturers National Corporation	Apr. 22, 1982.
(33) Oglethorpe Power Corporation's proposed acquisition of certain assets of Southern Company	June 10, 1982.
(34) South Carolina Electric and Gas Company's proposed acquisition of all voting securities of Carolina Energies, Inc	Apr. 21, 1982.
(35) Johnson and Johnson proposed acquisition of all voting securities of "A" Company, Inc. from Cooper Laboratories, Inc	Apr. 16, 1982.
(36) Mrs. Paul's Kitchens, Incorporated's with respect to the proposed acquisition by Campbell's Soup Company of certain assets of Mrs. Pauls Kitchen, Inc	Apr. 30, 1982.
(37) Carmel Trust's proposed acquisition of all voting securities of Wieboldt Stores, Inc	May 13, 1982.
(38) John Fabick Tractor Company's proposed acquisition of all voting securities of Nagle-Hart, Inc	May 13, 1982.
(39) C. A. Cavendes Sociadad Financieras proposed acquisition of certain voting securities of Florida National Bank, Inc	June 9, 1982.
(40) Mid-Smith Bottling Companies' proposed acquisition of the voting securities of Mid-South Beverage, Inc	June 2, 1982.
(41) Zurn Industries Incorporated's proposed acquisition of the voting securities of National Energy Production Corporation	May 28, 1982.
(42) Paul W. Lowder's proposed acquisition of all assets of the Sahara Hotel and Casino	July 1, 1982.
(43) Federated Department Stores Incorporated's proposed acquisition of voting securities of Twin Fair Distribution Incorporated	June 8, 1982.
(44) Wolsely-Hughes plc's proposed acquisition of the voting securities of Ferguson Enterprise, Incorporated	June 1, 1982.
(45) BOC Group plc's proposed acquisition of all voting securities of Chem-Sub, Inc	June 11, 1982.
(46) Valero Energy Corporation's proposed acquisition of all voting securities of Wil Gas Company	July 1, 1982.
(47) Texas Eastern Corporation's proposed acquisition of all voting securities of The Halcon SD Group, Inc	July 1, 1982.
(48) Sociate Generale de Surveillance Holding S.A.'s proposed acquisition of certain voting securities of United States Testing Company, Inc	Aug. 5, 1982.
(49) Transaction Number 83-0170, Security Financial Corporation's proposed acquisition of voting securities of Land Resources Corporation, (United National Corporation)	Apr. 5, 1983.
(50) Transaction Number 83-0213, Ames Department Stores, Inc.'s proposed acquisition of all voting securities of KDT Industries, Inc	Apr. 5, 1983.
(51) Transaction Number 83-0207, Alexander & Baldwin Incorporated's proposed acquisition of certain voting securities of Pacific Resources, Incorporated	Apr. 4, 1983.
(52) Transaction Number 83-0171, Minerals and Resources Corporation's proposed acquisition of voting securities of Plateau Holdings, Inc., (Hudson Bay Mining and Smelting Company, Ltd., UPE).	Apr. 4, 1983.
(53) Transaction Number 83-0190, Mobil Corporation's proposed acquisition of all certain assets of Colgate-Palmolive Company	Mar. 28, 1983.
(54) Transaction Number 83-0166, Bally Manufacturing Corporation's proposed acquisition of all voting securities of Health & Tennis Corporation of America	Mar. 28, 1983.
(55) Transaction Number 83-0156, Emerson Electric Company's proposed acquisition of assets of Southwest Truck Body Company	Mar. 24, 1983.
(56) Transaction Number 83-0191, Aachener and Muenchener Beteiligungs-Aktiengesellschaft's proposed acquisition of certain voting securities of Academy Insurance Group, Inc.	Mar. 24, 1983.
(57) Transaction Number 83-0198, Exco International's p.l.c. proposed acquisition of all voting securities of NAP Holdings U.K. Limited	Mar. 24, 1983.
(58) Transaction Number 83-0181, United States Lines, Incorporated's proposed acquisition of assets of Farrell Lines, Incorporated	Mar. 24, 1983.
(59) Transaction Number 83-0182, Eager Beaver, Incorporated's proposed acquisition of all assets of The McCulloch Division, (The Black and Decker Manufacturing, Company, UPE).	Mar. 24, 1983.
(60) Transaction Number 83-0192, Universal Health Services, Incorporated's proposed acquisition of all voting securities of Qualicare Incorporated	Mar. 31, 1983.
(61) Transaction Number 83-0162, Donald L. Bren's proposed acquisition of all voting securities of The Irvine Company	Mar. 31, 1983.

Transaction	Waiting period terminated effective
(62) Transaction Number 83-0167, Health Group, Inc.'s (George P. Van, UPE) proposed acquisition of assets of Donald R. Dizney, (United Hospitals, Inc., UPE)	Mar. 31, 1983.
(63) Transaction Number 83-0159, James River Corporation's proposed acquisition of certain assets of the Marathon Pulp Division of American Can Company	Mar. 31, 1983.
(64) Transaction Number 83-0202, Hamilton Brothers Petroleum Corporation's proposed acquisition of all voting securities of Hamilton Brothers Oil Company, (Frederic C. Hamilton, UPE).	Apr. 1, 1983.
(65) Transaction Number 83-0203, Hamilton Brother Petroleum Corporation's proposed acquisition of all voting securities of Hamilton Brothers Oil Company, (Volvo North America, Corporation, UPE).	Apr. 1, 1983.
(66) Transaction Number 83-0204, Intermark, Incorporated's proposed acquisition of certain voting securities of Pier 1, Imports Incorporated	Apr. 1, 1983.
(67) Transaction Number 83-0209, Leon Hess Corporation's proposed acquisition of certain voting securities of VGS Corporation	Apr. 1, 1983.
(68) Transaction Number 83-0210, Robert M. Hearin's proposed acquisition of certain voting securities of VGS Corporation	Apr. 1, 1983.
(69) Transaction Number 83-0199, Exco International's p.l.c. proposed acquisition of voting securities of Unitel International, Inc	Apr. 1, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-9893 Filed 4-13-83; 8:45 am]

BILIING CODE 6750-01-M

"Tar", Nicotine and Carbon Monoxide Content of the Smoke of 208 Varieties of Cigarettes

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects a Commission document previously published in the **Federal Register** on Wednesday, March 30, 1983.

DATE: The correction is effective upon publication.

FOR FURTHER INFORMATION CONTACT: FTC/PAL, Harold C. Pillsbury, Washington, D.C. 20580, (202) 523-3559.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-7982, appearing in the **Federal Register** issue for Wednesday, March 30, 1983, 48 FR 13268, on page 13270 the twentieth (20th) line of the chart on the left should read:

Brand	Type	Tar (mg/cig)	Nicotine (mg/cig)	Carbon monoxide (mg/cig)
Cambridge	king size, filter, hard pack.	<0.5	<0.05	<0.5

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-9891 Filed 4-13-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Effective Date of a Maryland State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on June 1, 1983 in Philadelphia, Pennsylvania to reconsider the effective date of Maryland State Plan Amendment 83-10.

Closing date: Request to participate in the hearing as a party must be received by 15 days after publication.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider the effective date of a Maryland State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration for States dissatisfied with a determination on a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to the effective date established on a State plan amendment dealing with the elimination of copayments on prescription drugs. Regulations at 45 CFR 201.3(g) require that the effective date of such a State plan amendment may be no earlier than the first day of the calendar quarter in which an approvable plan amendment is submitted. The Maryland plan amendment was received on January 10, 1983 and thus, an effective date of January 1, 1983 was established. The State, however, requested an effective date of October 1, 1982.

Maryland has requested reconsideration of the January 1, 1983, effective date on the basis that it took the necessary steps to ensure compliance with the changes required by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), and

made these changes effective with the implementation of the law, i.e., October 1, 1982. It is the State's position that the statutory requirement carries greater weight than the regulatory requirement governing effective dates of plan amendments and therefore requested an effective date of October 1, 1982.

In addition, the State points out that it did not receive until January 13, 1983, the Medicaid Action Transmittal (No. 82-28) which included preprinted State plan pages to update its plan in conformance with the copayment requirements of TEFRA. The State further claims that since these preprinted pages were not required to be submitted to the HCFA Regional Office until March 10, 1983, this indicates that the requirement for timely submission of this State plan amendment was waived.

The notice to Maryland announcing an administrative hearing to reconsider the effective date of its State plan amendment reads as follows:

Ms. Adele Wilzack, Assistant Secretary for Medical Care Programs
Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, Maryland 21201

Dear Ms. Wilzack: This is in reply to your letter to Mr. Everett Bryant, Regional Administrator, Health Care Financing Administration (HCFA) Region III, requesting reconsideration of the effective date of Maryland State Plan Amendment 83-10. This amendment which pertains to elimination of copayment requirements on prescription drugs for Medicaid recipients was approved on February 16, 1983 with an effective date of January 1, 1983.

You have requested reconsideration of the effective date on the basis that the State took the necessary steps to ensure compliance of its State plan with the changes required by the Tax Equity and Fiscal Responsibility Act of 1982, and made these changes effective with the implementation of the law, i.e., October 1, 1982.

In addition, you have claimed that the State did not receive Medicaid preprinted State plan pages until January 13, 1983. Further, you have stated that these preprint pages were not required to be submitted to HCFA until March 10, 1983, suggesting that the requirement for timely submission of this State plan amendment had been waived.

I am scheduling a hearing on your request to be held on June 1, 1983, at 10:00 a.m. in the Third Floor Conference Room, 3535 Market Street, Philadelphia, Pennsylvania 19104. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached on (301) 594-8261.

Sincerely yours,

Carolyne K. Davis, Ph.D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: April 8, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 83-9936 Filed 4-13-83; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

Division of Research Grants; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for April through June 1983, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	April-June 1983 meetings	Time	Location
Behavioral and Neurosciences—1 Dr. Bertie Woolf, Rm. A23, Tel. 301-496-7286	May 26-27	8:30	Holiday Inn, Georgetown, DC.
Behavioral and Neurosciences—2 Dr. Bertie Woolf, Rm. A25, Tel. 301-496-7286	May 16	8:30	Holiday Inn, Bethesda, MD.
Behavioral and Neurosciences—3 Dr. Bertie Woolf, Rm. A23, Tel. 301-496-7286	May 13	8:30	Holiday Inn, Bethesda, MD.
Behavioral and Neurosciences—4 Dr. Bertie Woolf, Rm. A23, Tel. 301-496-7286	May 13	2:00 p.m.	Holiday Inn, Bethesda, MD.
Behavioral and Neurosciences—5 Dr. Bertie Woolf, Rm. A25, Tel. 301-496-7286	May 20	8:30	Holiday Inn, Bethesda, MD.
Biomedical Sciences—1 Ms. Joan D. Fredericks, Rm. A10, Tel. 301-496-1067	May 23-25	8:30	Holiday Inn, Georgetown, DC.
Biomedical Sciences—2 Dr. Charles Baker, Rm. A10, Tel. 301-496-7150	May 24-25	8:00	Ramada Inn, Bethesda, MD.
Biomedical Sciences—3 Ms. Joan D. Fredericks, Rm. A10, Tel. 301-496-1067	June 16-18	8:30	Holiday Inn, Georgetown, DC.
Biomedical Sciences—4 Dr. Charles Baker, Rm. A10, Tel. 301-496-7150	May 19-20	8:00	Ramada Inn, Bethesda, MD.
Clinical Sciences—1 Dr. Lynwood Jones, Rm. A19, Tel. 301-496-7510	May 11-12	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences—2 Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477	May 16-17	8:30	Highland Hotel, Washington, DC.
Clinical Sciences—3 Dr. Lynwood Jones, Rm. A19, Tel. 301-496-7510	May 5-6	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences—4 Dr. Bernice Lipkin, Rm. A19, Tel. 301-496-7477	Apr. 29	8:30	Highland Hotel, Washington, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393-13.396, 13.837-13.844, 13.846-13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: April 7, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-9979 Filed 4-13-83; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Safety and Occupational Health Study Section; Meeting

Pursuant to Pub. L. 92–463, a meeting of the Safety and Occupational Health Study Section, National Institute for Occupational Safety and Health, in conjunction with the Division of Research Grants, will be held on April 22–23 and April 25–28, 1983, at the Colonial Manor Motel, 11410 Rockville Pike, Rockville, Maryland 20852. This notice is being published late due to the recent reorganization of NIOSH which included the transfer of their extramural research grant review function to the Division of Research Grants, NIH.

This meeting will be open to the public on April 25 from approximately 9:00 a.m. to noon, to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Study Section will be closed to the public all day on April 22 and 23 and from noon on April 25 to adjournment on April 28 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–7441, will furnish summaries of the meetings and rosters of committee members.

Dr. John Beisler, Executive Secretary of the Study Section, Westwood Building, Room 3A10, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–7071; will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.262, Occupational Safety and Health Research Grants, National Institutes of Health, HHS)

Dated: April 6, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-9979 Filed 4-13-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Announcement to Extend the Deadline Date for Receipt of Competitive Grant Applications for Family Planning Nurse Practitioner Training Projects

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs, Office of Family Planning amends the previously announced deadline date published in the **Federal Register**, Vol. 48, No. 51, Tuesday, March 15, 1983—Notices pp. 10925 and 10926. The extended date for completed applications to be postmarked or received is by the close of business May 16, 1983.

(Catalog of Federal Domestic Assistance Number 13.260)

Dated: April 6, 1983.

Marjory E. Mecklenburg,

Deputy Assistance Secretary for Population Affairs.

[FR Doc. 83-9939 Filed 4-13-83; 8:45 am]

BILLING CODE 4160-17-M

Announcement To Extend the Deadline for Applications for Family Planning General Training Projects

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs, Office of Family Planning amends the previously announced deadline date published in the **Federal Register**, Vol. 48, No. 51, Tuesday, March 15, 1983—Notices pp. 10924 and 10925. The extended date for completed applications to be postmarked or received is by the close of business May 16, 1983.

(Catalog of Federal Domestic Assistance Number 13.260)

Dated: April 6, 1983.

Marjory E. Mecklenburg,

Deputy Assistance Secretary for Population Affairs.

[FR Doc. 83-9938 Filed 4-13-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Coal Resource Information on Public Lands in Sweetwater and Uinta Counties, Wyoming

Notice is hereby given that Geological Survey of Wyoming Open-File Report 83–1 entitled "Geophysical logs, lithologic descriptions, and coal analyses from coal test holes drilled in 1982 in the Salt Wells and Kemmerer areas, Sweetwater and Uinta Counties, Wyoming" is now available to the public. The drilling, completed in August, 1982, in support of the Federal Coal Management Program, provides geologic information necessary to evaluate and classify coal resources on lands in the public domain. The program was sponsored by the U.S. Department of Energy, Laramie Energy Technology Center, under Grant Number DE–AS20–81LC10855 in cooperation with the U.S. Department of Interior, Minerals Management Service.

Forty-one coal test holes were drilled in the Salt Wells area, Sweetwater County, Wyoming, and ten coal test holes were drilled in the Kemmerer area, Uinta County, Wyoming. Both areas are located in southwestern Wyoming; the Salt Wells area is located in the Rock Springs Coal Field about 20 miles southeast of the town of Rock Springs on the southeastern flank of the Rock Springs uplift, and the Kemmerer area is located about 13 miles northeast of the town of Evanston in the southern part of the Kemmerer Coal Field.

The Salt Wells area test holes, located in Township 14 North, Ranges 102 and 103 West; Township 15 North, Range 102 West; Township 16 North, Ranges 101 and 102 West; and Township 17 North, Range 101 West, Sixth Principal Meridian, Wyoming, were designed to investigate coal beds in the Paleocene Fort Union Formation and the Upper Cretaceous Almond Formation. The Kemmerer area test holes, located in Township 16 North, Range 118 West, Sixth Principal Meridian, Wyoming, were designed to investigate coal beds in the Upper Cretaceous Adaville Formation.

The 130-page report is available for reproduction from the Bureau of Land Management, 100 East "B" Street, Room B–005, Casper, Wyoming 82601, (307) 261–5421. The report is available for public review at the Geological Survey of Wyoming on the campus of the University of Wyoming in Laramie. (307) 742–2054 or 766–2286.

Dwayne E. Hull,

Acting State Director.

[FR Doc. 83-9878 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

Arizona Strip District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The first meeting of the newly appointed Arizona Strip District Advisory Council will be held Wednesday, May 11, 1983 at 8:00 a.m. Primary topics will be an overview of the Bureau and presentation of on-going District programs.

DATE: May 11, 1983.

ADDRESS: Hilton Inn, 1450 South Indian Hills Drive, St. George, Utah 84770.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, 196 East Tabernacle, St. George, Utah 84770 (801/673-3545).

SUPPLEMENTARY INFORMATION: The agenda will also include a briefing of the BLM organization and mission, advisory council responsibility, presentation of district programs, and discussion of resource issues. Comments from the public will be received from 3:00 to 4:00 p.m.

G. William Lamb,

Arizona Strip District Manager.

[FR Doc. 83-9873 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau Form Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Jeffrey Hill, at 202-395-7340.

Title: 43 CFR Part 9210, Wildlife Prevention Permit.

Bureau Form Number: 9210-51.

Frequency: Whenever permittees apply.

Description of Respondents: Persons wanting to enter public lands during a wildlife prevention closure.

Annual Responses: 2,000.

Annual Burden Hours: 167.

Bureau clearance officer (alternate): Linda Gibbs 202-653-8853.

Arnold E. Petty,

Acting Associate Director.

April 8, 1983.

[FR Doc. 83-9879 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

California Desert District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94-579, Title IV, Section 403, that a public meeting of the California Desert District Grazing Advisory Board will be held Wednesday, May 18, 1983 from 10 a.m. to 4:30 p.m. at the International Hotel Resort, 1800 E. Palm Canyon Drive, Palm Springs, California 92262.

The agenda for the meeting will include:

—Otay Grazing Environmental Inpact Statement
—Unauthorized Grazing Usage
—Modoc/Washoe Rangeland Stewardship
—Allotment Management Plan's Update
—Range Improvement Project Work
—Plan Amendments to the California Desert Plan
—Cooperative Management Agreements

The meeting is open to the public, with time allotted for public comment after each subject has been presented

Summary minutes of the meeting will be maintained in the California Desert District and will be available for public inspection during regular business hours within 30 days following the meeting.

For further information and meeting confirmation, contact the California Desert District, 1695 Spruce Street, Riverside, California 92507 (714) 351-6398.

Dated: April 5, 1983.

Gerald E. Hillier,

District Manager

[FR Doc. 83-9872 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13451]

California; Realty Action Non-Competitive Sale of Public Land in El Dorado County

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($20,350):

Mount Diablo Meridian, California

T. 12 N., R. 10 E., Sec. 2,
E½NE¼SE¼SW¼NW¼ & SE¼SE¼ SW¼NW¼.

Containing 3.51 acres more or less.

The above described land, comprising 3.51 acres, is being offered by direct, noncompetitive sale to Gene R. Leader at current fair market value. Leader is the owner of the adjoining tract and improvements on the sale parcel.

Mr. Leader was advised of the potential trespass in 1980 and a recent survey showed his house was partially on public land. Mr. Leader's septic field, an unauthorized dump and access road is also located on public land. Disposal by direct sale to Mr. Leader will legalize his occupancy of the land, protect his equity investment in improvements on the land and resolve a complicated trespass situation.

The lands are classified for multiple use management under the Act of September 19, 1964; however, in light of the above the classification for the sale parcel has been reviewed and lifted. The sale is consistent with the Bureau's planning and disposal would best serve the public interest. The land will not be offered for sale for at least 60 days after the publication of this notice. Upon notification of the sale date, the purchaser will be given 30 days to pay the full appraised market value.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. Federal law required that the purchaser be a U.S. citizen or, in the case of a corporation, subject to the laws of any State of the U.S.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Bakersfield District Office at the above address. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-9874 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

[M57659]

Direct Sale of Public Land; Montana

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice of Realty Action M57659; direct sale of public land in Jefferson County.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C 1713 (1976), at no less than the fair market value.

Principal Meridian Montana

T9N, R2W, Section 9, E½E½SW¼, NW¼SE¼SE¼
Section 15, Lot 5

The areas described aggregate 26.77 acres. The land will be offered by direct sale to William and Cincoona Foster.

The subject land is located in extreme northern Jefferson County in the foothills at the southern end of the Helena Valley. Lands in this area are primarily agricultural in nature. The subject tracts are isolated tracts of 20 and 6.77 acres completely surrounded by the private land of William and Cincoona Foster. There is no legal public access the either tract.

The 20-acre tract in Section 9 is currently cultivated by the Fosters. The primary purpose of this sale is to authorize the existing use to insure future agricultural production on the tract. The 6.77-acre tract in Section 15 is a small rocky hilltop with little resource value.

There has not been any active management of these tracts by the Bureau in the past and a land report has determined that they are not needed for any future management programs. Disposal of these tracts will not result in the loss of any significant public values but will allow continued agricultural use.

The proposed sale is consistent with the Bureau's planning system, and the Jefferson County Commissioners have been notified on the sale. A statewide press release has been issued describing the sale. This notice of realty action provides additional opportunity for public comment and review.

Terms and conditions

The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

DATE: For a period of 45 days, from the date of this notice, interested parties may submit comments ot the Butte District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination of the Department of Interior. In the absence of any action by the State Director, this realty action will become a final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at the Butte District Office, 106 North Parkmont, Butte, Montana.

Dated: April 8, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83-9876 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

[N-36653]

Nevada; Issuance of Land Exchange Conveyance; Exchange of Public and Private Lands in Elko County

April 7, 1983.

The United States issued an exchange conveyance document to the City of Elko for the following described lands under Section 206 of the Federal Land Policy and Management Act of 1976:

Mount Diablo Meridian, Nevada

T. 34 N., R. 55 E.,
Sec. 22, SE¼SW¼NE¼, SE¼NE¼.
T. 34 N., R. 55 E.,
Sec. 15, a tract of land in the SW¼SE¼, SE¼SW¼;
Sec. 22, a tract of land in the NW¼NE¼, NE¼NW¼; more particularly described as follows:

"Beginning at a point 85.00 feet left of the centerline of the Railroad Corridor (Project No. RR-130) (1) at City Engineer's station "W" 466+13.70 P.O.C. said point of beginning being further described as bearing S. 81°33'40" W. a distance 3,048.80 feet from the NE corner of said Section 22; Thence N. 37°18'33" W. a distance of 274.49 feet to a point; Thence N. 57°37'27" E. a distance of 187.69 feet to a point; Thence N. 37°18'33" W. a distance of 183.00 feet to a point; Thence N. 57°35'27" E. a distance of 185.25 feet to a point; Thence N. 37°18'33" W. a distance of 100.00 feet to a point; Thence N. 57°35'27" E. a distance of 150.92 feet to a point; Thence S. 37°18'33" E. a distance of 100.00 feet to a point; Thence N. 57°35'27" E. a distance of 50.00 feet to a point; Thence N. 37°18'33" W. a distance of 100 feet to a point; Thence N. 57°34'40" E. a distance of 49.99 feet to a point; Thence S. 37°18'34" E. a distance of 455.86 feet to a point; Thence S. 41°03'26" W. a distance of 443.95 feet to a point; Thence S. 37°59'37" E. a distance of 21.58 feet to a point; Thence S. 37°59'34" E. a distance of 146.01 feet to a point; Thence S. 59°26'27" W. a distance of 190.05 feet to a point; Thence N. 37°18'33" W. a distance of 186.41 feet to a point of beginning."

Comprising 56.64 acres of public land.

In exchange for these lands, the United States acquired the following described lands from the City of Elko:

A parcel of land within the S½NW¼ of Section 1, T. 34 N., R. 55 E., MDM, Elko County, Nevada, and more particularly described as follows: Beginning at the point of intersection of the east-west quarter-section line of said Section 1 and the newly adopted southerly right-of-way line of former U.S. Highway 40 (now 40 feet southeasterly from centerline of said highway), as Corner No. 1, from which point the West quarter-section corner of said Section 1 bears S. 89°08'02" W. 576.09 feet, thence along said new right-of-way, from a tangent bearing N. 38°31'09" E. on a curve to the right, with a radius of 9960 feet, through a central angle of 0°38'59" an arc distance of 112.95 feet, to Corner No. 2, thence continuing along said new right-of-way N. 39°10'08" E. 474.25 feet to Corner No. 3, thence N. 89°08'02" E. 849.20 feet to Corner No. 4, thence S. 0°51'58" E. 450.00 feet to Corner No. 5, a point on the east-west quarter-section line of said Section 1, thence along said line S. 39°08'02" W. 1226.43 feet to Corner No. 1, the point of beginning.

Comprising 10.7 acres of private lands.

The purpose of this exchange was to acquire the non-federal lands for a new BLM office site in an area of the City of Elko acceptable to that municipality and to provide additional lands for the orderly expansion of the City of Elko. The needs of the local people will be met by providing lands for economic and community expansion. The public interest will be served through construction of a new BLM office complex which will consolidate three existing facilities into one single administrative site. The exchange was consistent with the Bureau's planning for the lands involved and is acceptable to local government officials.

The values of the Federal public land and the non-Federal land in the exchange were appraised equally at $214,500.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-9875 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

Land Use Analysis and Proposed Realty Action

This notice issued pursuant to 43 CFR Parts 1600 and 2700, invites public review and comment on preliminary issues and planning criteria to be used in evaluating a proposal to offer for public sale certain public lands located in Cheyenne and Yuma Counties, Colorado.

The proposed planning action involves preparation of an environmental assessment utilizing input received from the public. The environmental assessment to be issued on or about May 25, 1983, will be prepared in accordance with 40 CFR Part 1500 and will include a determination of the proposed action's consistancy with the policies and programs of local, state and other federal agencies. A decision statement will then be issued by the District Manager with the concurrence of the State Director allowing a thirty day protest period (43 CFR 1601.6–1).

The public lands being considered for public sale are:

County, township and range	Section	Acres
Cheyenne:		
16S., 47W., 6th PM	2, lot 5	76.70
16S., 45W., 6th PM	4, lot 12	65.23
16S., 45W., 6th PM	22, lots 5 and 6	79.13
16S., 45W., 6th PM	28, lots 5 and 6	78.90
Cheyenne County total	299.96	
Yuma:		
5S., 5W., 6th PM	27, lots 12 and 13	79.74
5S., 5W., 6th PM	31, lot 14	40.00
5S., 5W., 6th PM	32, SW¼NE¼	40.00
5S., 5W., 6th PM	32, SW¼SW¼	40.00
Yuma County total	199.74	

If found suitable, these lands will be offered for public sale at fair market value with all minerals reserved to the United States.

Preliminary issues identified include: economics of continued management as part of the public lands, rights of permittees and leasees, interests of adjoining landowners, and consistancy with the plans and programs of other government entities.

Planning criteria to be used in evaluating the proposal are:

1. Public lands may be offered for public sale when such lands, because of location or other characteristics, are difficult and uneconomic to manage and are not suitable for management by another Federal, state or local public entity.

2. Disposal will serve important public objectives which outweigh public objectives and values which would be served by maintaining such lands in Federal ownership.

The interdisciplinary team performing the land use analysis/environmental assessment represent the following disciplines: Realty, Wildlife, Geology, Hydrology, Cultural Resources, Recreation and Economics.

Public participation will be obtained by a public comment period initiated by this notice. Comments received on or before May 18, 1983 will be considered.

Comments or requests for further information should be addressed to: Frank Young, Area Manager, 10200 W. 44th Avenue, Wheatridge, Colorado 80033; phone (303) 234–4988.

Copies of the environmental assessment will be available for review at the Northeast Resource Area office listed above, and at the Canon City District Office, 3080 East Main Street, Canon City, Colorado 81212.

Supplementary information: This proposed action results from, and is consistant with, issues and criteria developed with public participation for the Northeast Resource Management Plan, initiated in March 1981. The Resource Management Plan is scheduled for completion in 1984. The planning process as it applies to the lands described herein, is being expedited to improve management efficiency and to be responsive to expressions of public interest.

Melvin D. Clausen,

District Manager.

[FR Doc. 83-9877 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

Las Cruces District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Las Cruces District, Interior.

ACTION: Notice of meeting.

SUMMARY: Agenda.

DATE: May 5, 1983, 9:30 am.

ADDRESS: Lordsburg Civic Center, 313 East 4th Street, Lordsburg, New Mexico.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, District Manager Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico 88004. Phone: (505) 524–8551.

SUPPLEMENTARY INFORMATION:

Agenda

1. Approval of minutes.
2. Comments of Las Cruces/Lordsburg Draft Management Framework Plan Amendment/Environmental Assessment.
3. Comments on nine Wilderness Study Areas in the Las Cruces District.
4. Review and update on Asset Management.
5. Adjourn.

The meeting will be open to the public and interested persons may make oral statements to the Board during an allotted time period beginning at 2 p.m. and lasting for at least one-half hour. The District Manager may establish a time for oral statements depending on the number of persons wishing to make statements. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 317 North Main Street (P.O. Box 1420), Las Cruces, New Mexico 88004 by May 4, 1983.

Daniel C. B. Rathbun,

District Manager.

April 8, 1983.

[FR Doc. 83-9880 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Land Resource Management; Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plat of survey.

SUMMARY: A plat of survey of the lands described below accepted March 8, 1983, will be officially filed in the Montana State Office effective 8 a.m. on June 1, 1983.

Principal Meridian, Montana

T. 8 N., R. 17 W.
Homestead Entry Survey No. 1240
Tract 37

The plat represents a dependent resurvey of a portion of HES 1240 and the survey of Tract 37 in unsurveyed T. 8 N., R. 17 W., Principal Meridian, Montana. The area described is in Granite County.

This survey was executed at the request of the U.S. Forest Service for the purpose of identifying the selected land in an exchange between the U.S. and private individuals.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Effective Date: June 1, 1983.

Dated: April 1, 1983.

Delores M. Heser,

Chief, Branch of Records.

[FR Doc. 83-9823 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Land Resource Management; Suspension of Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of suspension of filing of plat of survey.

SUMMARY: Official filing of plat for Township 7 South, Range 35 East, Principal Meridian, Montana, has been suspended. Subsequent to the **Federal Register** notice published February 18, 1983, page 7319, an official protest was received by the Montana State Office on March 23, 1983.

The plat of survey of T. 7 S., R. 35 E., Principal Meridian, Montana, will

remain in the open file. This plat will not be officially filed until the day after all protest(s) have been dismissed or accepted and become final or appeals from dismissal affirmed.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: April 1, 1983.

Delores M. Heser,

Chief, Branch of Records.

[FR Doc. 83-9824 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

[W-84549]

Wyoming; Invitation for Coal Exploration License, Anaconda Minerals Company

Anaconda Minerals Company hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning federally owned coal underlying the following described land in Campbell County, Wyoming:

T.43 N., R. 70 W., 6th Prin Mer,
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7 S½NE¼, SE¼NW¼, E½SW¼, SE¼
Sec. 7: E½NE¼, NE¼NW¼, N½NE¼SE¼
T. 43 N., R. 71 W., 6th Prin Mer,
Sec. 1: Lots 1, 2, 3, 4, S½N½, N½S½, SE¼, SE¼

Containing 1,279.32 acreas.

All of the coal in the above lands consists of unleased Federal coal within the Powder River Basin known recoverable coal resource area. The purpose of the exploration program is the determine the quality and quantity of the coal within the boundaries of the above described area.

A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under serial number W-84549): Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001; The Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601; and The U.S. Forest Service, Thunder Basin National Grassland, 809 South Ninth Street, Douglas, Wyoming 82633.

This notice of invitation will be published in this newspaper once each week for two consecutive weeks beginning the week of April 25, 1983, and in the **Federal Register.** Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Anaconda Minerals Company no later than 30 days after publication of this invitation in the **Federal Register.** The written notice should be sent to the following addresses: Anaconda Minerals Company, Attention Jane H. Martin, P.O. Box 5300, Denver, Colorado 80217, and The Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, P.O. Box 1828, Cheyenne, Wyoming 82001.

The foregoing is published in the **Federal Register** pursuant to Title 43 Code of Federal Regulations, § 3410.2-1(c)(1).

J. Stan McKee,

Acting Chief, Branch of Solid Minerals

[FR Doc. 83-9825 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

[OR-29129 (WASH)]

Washington; Lease/Sale of Public Lands in San Juan County

The following described land has been examined and identified as suitable for public recreation and is hereby classified for lease and/or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*)

Willamette Meridian

T. 35 N., R. 4 W.,
Sec. 23, Lots 3 & 4 (less approximately 1 acre in Lot 3, as described in Coast Guard map No. 66.7301) containing 38.1 acres, more or less.

The land is chiefly valuable for public recreation purposes, by virtue of its present use as a public park. The land will be leased, with an option to purchase, to the Washington State Parks and Recreation Commission. The lease will serve the important public objective of providing additional land for the State's recreational and public purpose projects. The lease will be issued subject to a 20 foot wide right-of-way reservation (OR 35125) granted to the Coast Guard, which also provides for unobstructed visibility for the Coast Guard, lighthouse. The land is an isolated tract, not essential to any BLM program. The land is not of national significance and this action will have no significant impact on the environment. The action is consistant with BLM policy and with State and local planning and zoning.

Classification of the land under the Recreation and Public Purposes Act (R&PP Act), segregates them from all appropriation, including locations under the mining laws, except as to applications under the mineral leasing laws and applications under the R&PP Act.

For a period of 30 days, interested parties may submit comments to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Roger W. Burwell,

District Manager.

[FR Doc. 83-9826 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP82-80-008]

Michigan Wisconsin Pipe Line Co.; Notice Of Proposed Change In FERC Gas Tariff

April 7, 1983.

Take notice that on March 31, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Eighteenth Revised Sheet No. 7 to its F.E.R.C. Gas Tariff, Original Volume No. 1, to be effective May 1, 1983.

Michigan Wisconsin states that this filing is being made in accordance with Article IV, paragraph 3e of the Stipulation and Agreement submitted by Michigan Wisconsin on October 25, 1982 in Docket Nos. RP81-61 and RP82-80, which was approved by the Commission on February 10, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 or the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before April 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any party wishing to become a party to the proceeding must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-9844 Filed 4-13-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

San Luis Unit, California; Intent To Prepare a Draft Supplemental Environmental Statement

In compliance with Section 102(2)(C) of the National Environmental Policy

Act of 1969, the Department of the Interior, Bureau of Reclamation, proposes to prepare a draft supplemental environmental statement (ES) on the San Luis Unit of the Central Valley Project, and the Delta-Mendota Canal service area, California. The draft supplemental ES will be integrated with a planning report which will present actions proposed for the unit.

The proposed actions are to: (1) Amend the existing water service contract with Westlands Water District to increase the long-term commitment of water from the San Luis Unit; (2) complete construction of water distribution systems for Westlands Water District; (3) complete the San Luis Drain with sufficient capacity to provide drainage service to all problem areas along the drain alinement, including the entire San Luis Unit and Delta-Mendota Canal service areas (includes construction of interim drainage evaporation ponds, emergency storage, and regulating reservoirs along the drain alinement, and construction of drainage effluent treatment facilities); and (4) complete construction of Westlands Water District drainage collector systems.

For the action on the water service contract, alternatives to be considered are a modified contract, conservation, and no action. The alternative to construction of water distribution systems is no action. Alternatives to completing the San Luis Drain are in-valley evaporation, desalinization, and no action. For both the in-valley evaporation and desalinization alternatives, methods of salt disposal will be developed. A no-action alternative will be considered for completion of construction of Westlands Water District drainage collector systems.

During the last 5 years, considerable input has been received from interested agencies and individuals. Although no scoping sessions are planned at this time, input to the draft supplemental ES will still be accepted. The draft supplemental ES is expected to be completed and available for review and comment by May 1984.

Information on the project may be obtained from the following individual: Roderick M. Hall, Office of Environmental Quality, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825 telephone: (916) 484-4792.

Dated: April 7, 1983.

R. N. Broadbent,

Commissioner.

[FR Doc. 83-9800 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-09-M

Upper John Day Project, Oregon; Intent To Prepare a Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior intends to prepare a draft environmental statement (ES) on the potential Upper John Day Project in eastern Oregon. The draft ES will be integrated with a planning report which will present the recommended plan as well as alternative plans for the project.

In a study, authorized by Pub. L. 92-199, the Bureau of Reclamation is investigating potential water resource development in the John Day River Basin to augment streamflow. Rehabilitation of the stream system to enhance diminishing runs of salmon and steelhead is a primary objective of the study. Habitat restoration appears to be possible through flow augmentation resulting from water releases from new headwaters storage facilities, restoration of streambank vegation, and streambank protection. Headwater storage also could supply water for irrigation purposes and make additional areas available for water-related recreation.

In the study, water needs have been documented and several headwater storage sites have been identifed. A preliminary planning report in which those findings are discussed was reviewed by the public, and on the basis of that review and study results, a preferred storage site—the Phipps Meadow site on the upper Middle Fork of the John Day River—was selected for detailed evaluation. Detailed engineering, economic, environmental, and social evaluations of storage development at the Phipps Meadow site now are underway.

In the draft planning report/ES, Reclamation will address construction of a dam and reservoir at the Phipps Meadow site, enhancement of streamside vegetation along the Middle Fork of the John Day River from the damsite downstream for about 20 miles, development of recreation facilities at the reservoir, and provision of irrigation water supplies in the vicinity of Monument, Oregon, located about 65 river-miles downstream of the dam. The draft report/ES presently is scheduled to be filed during the fall of 1984.

Several public meetings have been held throughout the Upper John Day River Basin in the past 2 years to discuss study goals and objectives and to solicit public comments and concerns. In view of the opportunity provided by those meetings and participation by the public, no specific scoping meeting is being scheduled for the draft report/ES. However, the proposed project will be the subject of future public meetings. Questions concerning environmental issues and other matters will be invited and encouraged in those sessions.

To further assure that the full range of issues related to this proposal are identified and discussed in the document, comments and suggestions are invited. Anyone with suggestions relating to significant environmental issues in the area under study should contact Robert A. Adair, Environmental Specialist, Bureau of Reclamation, Pacific Northwest Region, Box 043-550, West Fort Street, Boise, Idaho 83724, telephone (208) 334-1209.

Dated: April 8, 1983.

Robert N. Broadbent,

Commissioner.

[FR Doc. 83-9828 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Fourth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes the United States negotiating positions for the fourth regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

FOR FURTHER INFORMATION CONTACT: Richard Robinson, Acting Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone: 703/235-2418.

SUPPLEMENTARY INFORMATION:

Background

In accordance with § 23.35 of 50 CFR Part 23, Subpart D, the Service's rules providing for public participation in the development of negotiating positions for meetings of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES or the

Convention), the Service publishes the United States negotiating positions for the fourth regular meeting of the Conference of the Parties to the Convention ("the meeting") to be held in Gaborone, Botswana, April 19 through April 30, 1983.

The Service published its proposed negotiating positions for most of the matters to be addressed at the meeting in the **Federal Register** of February 7, 1983 (48 FR 5605). The notice also set forth summaries of six additional issues. No summaries of proposed negotiating positions were published for these six issues because the Service had not received information concerning them in sufficient time to develop them for the notice. However, information and comments were received on these in writing and at a public meeting conducted by the Service (February 15, 1983). Pursuant to § 23.38(a) of the rules, and due to the lack of time necessary to develop proposed negotiating positions on the issues in accordance with the rules, the Director, by this notice suspends the applicability of §§ 23.32, 23.33, 23.34 and 23.36 as they relate to these additional issues and the circumstances associated therewith.

What follows is a summary of the negotiating positions on the items of the provisional agenda and the additional issues, a summary of information and comments received in response to the notice of February 7, 1983, and a summary of the bases for the negotiating positions which include, if necessary, responses to information and comments received. In the interests of time and economy, where there has been no change in the proposed negotiating position for a particular agenda item, it will be so stated meaning that the proposed negotiating position as published in the notice of February 7, 1983, has been adopted. If information and comments for a particular agenda item were received by the Service in accordance with the notice of February 7, 1983, they will be summarized in the "Information and Comments" element associated with the agenda item. If the basis for a proposed negotiating position has changed, while the proposed negotiating position has been adopted without change, the new basis for the negotiating position will be stated. Where no elements of a particular agenda item have changed, the words "No change" will appear after the number and title of the agenda item. Numbers and titles used in this notice correspond to those used in the February 7, 1983, notice. If necessary, one should consult the notices of August 5, 1982, (47 FR 34043) and September 27, 1982, (47 FR 42465) to understand the issues and the notice of February 7, 1983, to understand the proposed negotiating positions and their bases.

Negotiating Positions (Summaries)

I. Opening Ceremony by the Authorities (no change).

II. Welcoming Addresses (no change).

III. Establishment of the Credentials Committee (no change).

Information and Comments: One commenter agreed with the proposed negotiating position for this item.

IV. Adoption of Agenda and Working Programme (no change).

Information and Comments: One commenter agreed.

V. Report of the Credentials Committee (no change).

Information and Comments: One commenter agreed.

VI. Adoption of Rules of Procedure (no change).

Information and Comments: Two commenters agreed. A third recommended that the position should expressly advocate that the chairman of committee sessions and working groups have discretionary authority to permit observer participation.

Basis of Proposed Negotiating Position: No change except that there is not sufficient information to show need for making explicit in the rules of procedure or elsewhere a requirement that only committee and working group chairmen should have sole authority to permit observer participation in committee and working group meetings.

VII. Admission of Observers.

Proposed Negotiating Position: (no change).

Information and Comments: Two commenters agreed. A third agreed, provided the requirements for observer status were expanded to include, in the alternative, persons knowledgeable in trade and customs matters "* * * for it is the legitimate impact on these activities which in large measure implements CITES."

Basis of Proposed Negotiating Position: No change except that Article XI limits observer status to any body or agency technically qualified in protection, conservation, or management of wild fauna and flora. This would not exclude those agencies or bodies also knowledgeable in trade matters. Numerous technically qualified trade associations have obtained observer status for previous meetings of the Conference of the Parties and certainly many persons knowledgeable in customs matters have also attended as delegates or observers.

VIII. Report and Recommendations of the Standing Committee.

1. Report by Chairman (no change).

2. Revision of the Membership of the Standing Committee (no change).

3. Payment of Travel Expenses for Standing Committee Members (no change).

4. Election of New Members of the Standing Committee (no change).

IX. Report of the Secretariat (no change).

Information and Comments: Two commenters agreed.

X. Financing of the Secretariat and of meetings of the Conference of the Parties.

Negotiating Position: The United States supports the small increase in staff proposed in the budget for 1984–85 and can acquiesce in the inflationary increase which the budget also reflects. The United States will attempt to negotiate certain reductions related mainly to exchange rates.

Information and Comments: Two commenters agreed.

Basis of Negotiating Position: The proposed negotiating position was drafted before receipt of the proposed budget. Increase in the Secretariat's workload related to an increase in the number of Parties to CITES (1978–44, 1984–90 projected) and in the formation of the Technical Expert Committee and Identification Manual Committee and other activities, has led to the Secretariat proposal to increase authorized staff by one professional and one secretary, to four professionals and three secretaries.

1. Transfer of responsibilities (for the administration of the Trust Fund for the Convention) (no change).

2. Headquarters Matters (no change).

XI. Relationship with other International Agreements and Organizations (no change).

XII. Committee Reports and Recommendations.

1. Technical Expert Committee.

Negotiating Position (no change).

Information and Comments: One commenter opposed restructuring the Technical Expert Committee because limiting the membership to 6 countries would prevent many Parties from participating and voting in TEC meetings, and because the United States should preserve its ability to attend any CITES meeting.

Basis of Negotiating Position: No change except that the United States ability to attend restructured TEC meetings when not a member would not be lost, since it could attend as an observer. The United States has attended Standing Committee meetings (regionally structured) on the same basis.

2. Identification Manual Committee (no change).

Information and Comments: One commenter agreed.

3. Nomenclature Committee (no change).

Information and Comments: One commenter suggested that the Nomenclature Committee should prepare a list of names and synonyms of species that are traded on the appendices to CITES.

Basis of Negotiating Position: Other organizations are more appropriate to produce a list of species traded. The Nomenclature Commitee lacks trade data and is occupied in the production of complete nomenclatorial references for use of the Parties.

XIII. Interpretation and Implementation of the Convention.

1. Report of the Technical Expert Committee on national reports under Article VIII, paragraph 7, of the Convention.

Negotiating Position: No change except that the TEC should also consider trade volume that appear to be unusually high.

Information and Comments: One commenter indicated that some species may be able to sustain "high volumes of trade" and if this term was improperly defined, Article XIII action could be initiated for emotional rather than scientific considerations. Another commenter suggested consideration of species traded in violation of exporting countries' laws. A third, suggested a new agenda item to consider problems of trade in sea turtles.

Basis of Negotiating Position: The position stated above recognizes that high trade volume *may* indicate that the species is being over exploited.

Trade in violation of exporting countries' laws is an appropriate subject for TEC consideration. It is possible that some of the species whose trade the United States has recommended for TEC examination were traded illegally. Country consultations and Secretariat inquiries also deal with illegal trade quite frequently. The United States believes that species subject to high volumes of trade require priority consideration.

The Service has submitted information on sea turtle trade provided by the commenter to the Chairman of TEC for consideration at the meeting.

2. Review and Harmonization of Annual Reports.

Negotiating Position: None necessary since this item was deleted from the provisional agenda.

3. Effects of Reservations.

Negotiating Position: No change except that the United States supports a recommendation that Parties reserving to an "onlisting" of a species or to a species upon accession should maintain and communicate statistical records on trade in the species concerned as part of their annual reports.

Information and Comments: One commenter agreed with the proposed position and also recommended that the United States actively discourage the taking of reservations which undermine CITES effectiveness in controlling trade.

Another commenter asserted that a species listing based on insufficient information would constitute a conflict with United States law (CITES) and would be sufficient grounds for taking a reservation.

A third commenter urged that the United States support a proposal that would have reserving Parties in all cases consider reservations to Appendix I listings as Appendix II species, because Appendix I items could be illegally exported from a Party to a reserving Party (considering the species as not controlled by CITES) thus totally depriving those specimens of protection.

A fourth commenter urged that the United States seriously consider taking reservations on listings with inadequate data and listings of domestic species over United States objection.

Basis of Proposed Negotiating Position: Trade statistics are important to the effective implementations of CITES. Parties reserving to "onlistings" or to species on accession will still have to issue comparable documentation when trading the reserved species with nonreserving Parties. Processing of data from such documentation could easily fit into their data systems for species for which they have not taken reservations.

It would be inconsistent for the United States to actively discourage reservations while maintaining that it could take reservations for the reasons stated in the proposed negotiating position. The United States position is to urge reserving Parties to consider the underlying reasons for their reservations and to consider withdrawing them.

The United States would consider insufficiency of the basis for an amendment to the CITES species appendices as possible grounds for taking a reservation to that species.

The taking of a reservation is a serious matter. As stated in our proposed negotiating position, generally the United States will not take a reservation as to species listings. One cannot deny that a reservation may have an unfavorable impact on a species. Where the reserving Party is importing specimens illegally exported from a nonreserving Party, the remedy lies by ensuring that the nonreserving Party performs in accordance with its treaty obligations.

The United States would consider taking a reservation if a domestic species was listed over United States objection.

4. Parts and derivatives from nonrecognizing States (no change).

Information and Comments: Two commenters agreed. A third agreed and suggested that acceptance of non-Party documents from nonrecognizing Parties be limited to Appendix II species, because commercial trade in Appendix I species may be detrimental to wild populations.

Basis of Negotiating Position: No change except that the recognizing importing Party would still have to issue an Appendix I import permit. Such permits should not be issued if the specimen to be imported was to be used for primarily commercial purposes.

5. Parts and Derivatives of plants and Appendix III animals (no change).

Information and Comments: One commenter agreed. Another supported full implementation of Conf. 2.18 and agreed with the proposed position so far as it furthers the objectives of Conf. 2.18.

Basis of Negotiating Position: One important distinction between Conf. 2.18 and the United States position is that Conf. 2.18 presumes that readily recognizable parts and derivatives of all Appendices II and III plants and Appendix III animals should be controlled, whereas the United States position would have the Parties examine those species (and other taxa) to determine whether broad coverage of parts and derivatives is necessary.

6. Trade in African Elephant ivory (no change).

Information and Comments: Three commenters agreed with the proposed negotiating position

7. Trade in souvenirs.

Negotiating Position: No change except to urge that exporting Parties examine their souvenir trade and require permits where necessary.

Information and Comments: Two commenters agreed with most of the proposed negotiating position. They recommended that Parties also comply with permit requirements, notify the country of origin when large volumes of Appendix I items are seized, explain import controls to tourists and take stricter domestic measures when the country of origin feels that the souvenir trade in Appendix II species is having detrimental effects on wild populations.

Another commenter supported adoption of the draft TEC resolution incorporating the above commenters' recommendations and another

recommendation that would in effect eliminate the Article VII exemption for personal effects.

A fourth commenter agreed with the proposed negotiating position.

Basis of Negotiating Position: Conf. 2.6 calls on a Party to apply stricter domestic measures where it deems that an Appendix II species is being traded in a manner detrimental to the survival of the species. That part of the TEC resolution which would result in the application of stricter domestic measures to trade whether or not such trade is deemed to be detrimental would result in unnecessary and burdensome regulations.

That portion of the TEC resolution which calls on Parties to comply fully with the requirements of Articles III and IV with respect to souvenirs and in particular vigorously control the export and import of Appendix I specimens is, in effect, a restatement of Conf. 3.9, paragraph (a)(i) which calls on the Parties to "* * * ensure strict compliance and control in respect to all mechanisms and provisions of the Convention relating to the regulation of trade in animal and plant species listed in Appendix II, and of all provisions ensuring protection against illegal traffic. * * *"

If trade of a particular species is detrimental, Conf. 2.6 already calls on the Parties to consult with the appropriate Management Authorities, and use Article XIII to call upon the assistance of the Secretariat. Further, Conf. 2.6, call for Party-to-Party communication if such trade is illegal. In addition, Conf. 3.9 calls on the Parties to "* * * inform each other on all circumstances and facts likely to be relevant as regards illegal traffic and also on control measures with an aim to eradicating such traffic.* * *" The United States negotiating position calls on the proponents of the TEC resolution to provide TEC with trade and biological data for consideration of any souvenir trade problems pursuant to Conf. 2.6 and Conf. 3.5.

8. Return of illegally traded specimens.

Negotiating Position: No change except that the United States supports a recommendation that proceeds from the sale of confiscated Appendix II parts and derivatives be used for enforcement (and administrative) purposes and that knowing violators should not benefit from disposal of the specimen, and should pay the reasonable costs of confiscation, custody and (or) return to the country of export of live specimens (where it would be practical and beneficial to the species to do so).

Information and Comments: One commenter agreed with the proposed negotiating position.

Basis of Negotiating Position: Funding for national and international administration of CITES is inadequate. Where domestic law allows, proceeds from the sale of Appendix II parts and derivatives would be a helpful supplements. Under United States law, proceeds must be used to pay all proper expenses of forfeiture and sale (including confiscation, maintenance of custody and advertising for the sale). Any remainder must go to the Treasury. If violators could benefit from disposal, the deterrent effect of controls on illegal trade would be diminished.

The Endangered Species Act allows the charging of reasonable fees for expenses connected with the transfer, board or handling of fish or wildlife or plants.

The TEC resolution was not received in sufficient time to enable publication of a proposed negotiating position addressing it specifically. Some of the resolution incorporates ideas advanced by the Service in a paper submitted to TEC and such ideas were the subject of the proposed negotiating position. Pursuant to § 23.38(a), and due to lack of time to develop this negotiating position fully in accordance with the rules for public participation, the Director, by this notice, suspends §§ 23.33, 23.34, and 23.36 in relation to this issue and the circumstances associated therewith.

9. Time validity of export permits and re-export certificates (no change).

Information and Comments: One commenter agreed.

10. Exemptions under Article VII of the Convention.

Negotiating Position: No change except that the Parties should consider whether or not continuation of the Secretariat's survey of Article VII problems is worthwhile. TEC should consider this matter at the Botswana meeting.

Problems associated with Article VII are best dealt with as they arise.

The United States opposes consideration of the adoption of the use of phytosanitary certificates by the Conference of the Parties until such time as the Food and Agriculture Organization of the United Nations approves of such use. The United States would support a resolution requesting that the Secretariat consult with FAO in order to obtain such approval.

The United States supports development of an exemption (being proposed by the Chairman of TEC) from the recommendation that parental breeding stock must be "capable of reliably producing second-generation offspring (see Conf. 2.12) for certain species that take many years to mature.

Information and Comments: One commenter agreed with the proposed negotiating position. Another urged that the United States oppose the adoption of the phytosanitary certificate until it includes all necessary CITES information. Another supported use of phytosanitary certificates, but only if they state that certification means that the shipment meets CITES standards for classification as artificially propagated.

One commenter urged that the Conf. 2.12 definition of bred in captivity be adhered to and that standards contained therein not be weakened.

Two commenter opposed that part of the proposed negotiating position which stated that the date to be used for determining when the provisions of the Convention applied to a specimen was the later of two events: entry into force of the first listing of the species in question and entry into force of the Convention for the Party determining whether to grant the "pre-Convention" exemption. The commenter asserted that only the date of entry into force of the first listing of the species in question shold be considered the date the Convention applied to any specimen of the species in question, because the "two events test" would "* * * encourage stockpiling of listed species by non-Party nations in advance of joing CITES. Upon accession to CITES the stockpiled specimens could be traded as "pre-Convention specimens under the exemption * * *."

Basis of Proposed Negotiating Position: Only nine countries have responded to the Secretariat's Article VII survey. The survey was requested by the Conference of the Parties at San Jose (1979). As it stands, it would be of little value in addressing Article VII problems.

Adoption of a resolution by the CITES Conference of the Parties sanctioning the use of the FAO phytosanitary certificate without FAO approval could harm relations between the two organizations and open the way for unauthorized uses of CITES documents.

Operations attempting to breed in captivity species that take many years to mature are encountering economic difficulties due to the long time needed to reliably produce second generation offspring. The proposed long maturing species exception would allow temporary relief for these operations from the Conf. 2.12 definition of bred in captivity. It has criteria which would provide for the protection of wild populations.

Stockpiling of specimens is a possible unfavorable consequence of that part of the negotiating position concerning when provisions of the Convention "applied to that specimen." Greater incentive for countries to join CITES and denial of the use of the pre-Convention exemption by non-Parties are possible favorable consequences.

The Service did not receive sufficient information from which to develop proposed negotiating positions for the proposals on use of the phytosanitary certificate for artificially propagated plants and on the long maturing species exception until after publication of the February 7, 1983, notice. Therefore, in accordance with § 23.38(a) of the rules for public participation, etc., and due to the lack of time that would be necessary to develop this negotiating position with public participation in accordance with such rules, the Director, by this notice, suspends the applicability of §§ 23.32, 23.33, 23.34 and 23.36 as they relate to this issue and the circumstances associated therewith.

11. Specimens in transit.

Negotiating Position: No change except that the resolution should recognize other reasons for interruption of transit in addition to other than those associated with arrangements between consignor and consignee.

Information and Comments: One commenter agreed.

Basis of Proposed Negotiating Position: Interruptions of transit may occur for such valid reasons as transportation delays, health of the specimen, compliance with local laws protecting agriculture, human health, etc.

12. Guidelines for transport (no change).

Information and Comments: One commenter agreed. Another agreed while restating a preference for adoption of certain proposed amendments summarized in the February 7, 1983, notice.

13. Animals stressed during transport (no change).

Information and Comments: One commenter agreed.

14. Control of captive breeding and artificially propagating operations in Appendix I species.

Negotiating Position: The United States supports adoption of a proposed resolution drafted by the Secretariat recommending that the Parties provide information on commercial captive breeding and artificial propagation operations, that the Secretariat compile a registry of such operations based on information provided by Parties and on information obtained from an IUCN/Wildlife Trade Monitoring Unit survey, and that Parties reject documentation covering specimens from unregistered operations (if such documentation relies upon the exemption provided by Article VII, paragraph 4). The United States supports this proposal for a register, provided it does not diminish the authority of each Party to determine eligibility for the exemption.

Information and Comments: Two commenters agreed with the proposed negotiating position. A third cautioned that great care should be exercised in the preparation of a register, presumably because operations trading wild animals and plants as artificially produced could more easily avoid CITES controls by being registered.

Basis of Negotiating Position: No proposed negotiating position was set forth in the February 7, 1983, notice because the Secretariat's proposal had not then been received. The proposal could be interpreted to give the Secretariat authority to determine which operations in Party countries are eligible for registration. The Secretariat in conversation with a Service representative agreed that such was not the case. (However, such authority would be the case for operations in non-Party countries. This would be similar to the Secretariat's authority to register non-Party scientific institutions for the Article VII, paragraph 6 exemption (see Conf. 2.14).)

XIV. Consideration of proposals relating to the appendices.

1. Ten Year Review of Appendices (no change).

Information and Comments: One commenter agreed.

2. Reverse listing concept for the appendices (no change).

Information and Comments: Two commenters agreed.

XV. Consideration of Proposals for Amendment of Appendices I and II.

This item was not a substantive subject of the February 7, 1983, notice. Separate notices concerning this item were published in the **Federal Register.**

XVI. Conclusion of the Meeting.

1. Determination of the time and venue of the next regular meeting of the Conference of the Parties (no change).

2. Closing remarks (no change).

Additional Issues

1. Regulation of trade in Appendix II wildlife.

Negotiating Position: The United States prefers the use of TEC to remedy excessive trade in Appendix II wildlife (see Conf. 3.5). The United States has submitted a paper to TEC for circulation at the Botswana meeting requesting that TEC consider high volumes of trade in certain species (see negotiating position for item XIII.1, above).

Information and Comments: One commenter agreed with the Australian proposal. Another agreed with the Australian proposal and in addition suggested that TEC publish a list of projects relating to the status of species so that they could be considered for external funding.

Basis of Negotiating Position: The United States believes that exporting countries should have an opportunity to consider the data indicating high volumes of trade, and to any guidance TEC may provide and to respond to them before the Parties consider adopting a procedure like the Australian proposal. The Australian proposal would subject exporting countries to management programs recommended by a committee composed of Party and nongovernmental organizations.

2. Interpretation of "prepared and shipped," "living specimen," and "cruel treatment."

Negotiating Position: The United States, while sharing the concern that animals should be treated humanely, believes that the method of capture and subsequent killing of a controlled animal is not within the scope of the Parties' duty to so prepare and ship for export or re-export any living specimen as to minimize risk of injury, etc.

Information and Comments: One commenter agreed with the Gambian proposal.

Basis of Negotiating Position: Capture of an animal is related to the Management Authority determination of whether or not the animal was obtained in contravention of the laws of the State of export for the protection of fauna and flora and not to a Management Authority and finding concerning humane transport. Intentional killing of an animal associated with the commercial process is not relevant to the finding concerning humane preparation and shipment of living animals.

3. Regulation of zoos and similar institutions.

Negotiating Position: The Parties should only consider the most serious problems associated with zoos and similar institutions instead of setting standards and ranking zoos and public and private animal parks on a worldwide basis.

Information and Comments: Five commenters concurred with the negotiating position stated above. One favored the proposal but recognized that compiling of a ranked list would be a "massive undertaking." This commenter suggested that the Secretariat could

consult with competent national organizations expert in evaluating zoological institutions.

Basis of Negotiating Position: The proposal itself states that the problems it addresses are not major ones. Given the limited resources of the Secretariat and of the Parties, it seems that the Parties should only address the most serious problems. TEC should consider this issue in Botswana.

4. Identification of mammals hairs.

Negotiating Position: Support development of any techniques to identify mammal hairs.

Information and Comments: One commenter stated concurrence with Additional Issue Number 4.

Basis of Negotiating Position: Lack of capability to identify species of wildlife reduces enforcement capabilities.

5. Procedure for proposal of amendments.

Negotiating Position: The United States supports adoption of a resolution recommending that if a Party wishes to be assured that an appendix amendment will be considered by the Conference of the Parties it should make its own proposal rather than risk having the proposing Party withdraw the amendment.

Information and Comments: Two commenters agreed with the position stated above. One of them suggested that information provided in the withdrawn proposal should be combined with the data in the proposal that was not withdrawn so that the Parties could have more data on which to base their decision.

Basis of Negotiating Position: It is believed that implicit in the right to propose amendments to the appendices is the right to withdraw them.

Information accompanying a proposed amendment to Appendix I or II is not a part of the proposal and, like any other information, may be considered by the Parties even if the proposal it is associated with is withdrawn. Conf. 2.17 states that proposals "* * * must be accompanied by a memorandum [containing the information] written by the proponent with a view to its submission to the Parties at the same time as the proposal * * *."

6. Proposed amendment to allow accession of regional economic integration organizations. (Position still being developed.)

Information and Comments: One commenter favored accession of the European Community to CITES.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: April 11, 1983.

Robert A. Jantzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 83-10004 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-55-M

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant: Carle Foundation, 611 West Park Street, Urbana, IL 61801.

2. Type of permit: Marine Mammal-Scientific Research.

3. Name and number of animals: Polar bear (*Ursus maritimus*), approximately 300 blood samples/year.

4. Type of Activity: Import blood samples.

5. Location of Activity: Canada.

6. Period of Activity: until January 30, 1985.

The purpose of this application is to allow the import of blood samples to be analyzed for urea, creatinine, carnitine and other substances felt to be essential for survival under the extreme conditions imposed upon the polar bears.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application as been assigned file number PRT 2-9221. Written data or views, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements contained in his notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 601, 1000 North Glebe Road, Arlington, Virginia.

Dated: April 8, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-9833 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Conoco, Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4894, Block 67, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: April 6, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-9871 Filed 4-13-83; 8:45 am]

BILLING CODE 4310-MR-M

Office of the Secretary

Nevada; Amendment of Wilderness Inventory Decisions

AGENCY: Office of the Secretary, Interior.

ACTION: Amendment of wilderness inventory decisions.

SUMMARY: This notice amends previous wilderness inventory decisions by the Bureau of Land Management for lands administered by the Nevada State Office of the Bureau of Land Management, eliminating all or part of 14 wilderness study areas (WSA). The total area eliminated from WSA status under Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) is 160,142 acres.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Nevada State Director, Bureau of Land Management, 300 Booth Street, Post Office Box 12000, Reno, Nevada 89520, telephone (702) 784-5748.

SUPPLEMENTARY INFORMATION:

Amendment of Wilderness Inventory Decisions

This notice completes the action necessary with respect to Bureau of Land Management (BLM) wilderness study areas administered by the BLM Nevada State Office to bring the BLM wilderness review into compliance with recent decisions of the Interior Board of Land Appeals. Previous action on this subject was published in the Federal Register on December 30, 1982 (47 FR 58372).

Section 1. Areas Under 5,000 Acres. The following area is deleted from wilderness study area status, effective upon publication of this decision in the Federal Register; it was improperly identified as a wilderness study area under Section 603 of FLPMA:

WSA Name: Carson-Iceberg
Number: NV-030-532
Acreage: 550
County: Mono (California)

Section 2. Split-Estate Lands. A. The lands listed as "split-estate" in Table 1 are deleted from wilderness study area status, effective upon publication of this decision in the Federal Register. These are lands that were improperly identified for wilderness study under Section 603 of FLPMA. They consist of scattered tracts where the Federal Government owns the surface but where the subsurface mineral estate is nonfederally owned (referred to hereafter as split estate). In the wilderness study areas listed in Table 1, only the indicated acreage of split-estate lands is eliminated from wilderness study; the remainder of the WSA remains under wilderness study, and the boundary of the WSA has not been changed. The deletions do not affect the BLM's previously adopted conclusions as to the presence of wilderness characteristics.

B. The boundary of the wilderness study area listed in Table 2 is modified, effective upon publication of this decision in the Federal Register, to delete split-estate lands. Only the indicated acreage is eliminated from wilderness study. The remainder of the WSA remains under wilderness study, and the boundary change does not affect the BLM's previously adopted conclusions as to the presence of wilderness characteristics in the remaining WSA.

Section 3. Contiguous Areas. The areas listed in Table 3 are deleted from the status of wilderness study areas, effective upon publication of this decision in the Federal Register. These are lands that were improperly identified for wilderness study under Section 603 of FLPMA. These areas were found not to have wilderness characteristics by themselves.

Section 4. Management of Deleted Lands. All lands administered by the Nevada State Office of the BLM which are deleted from wilderness study status by this decision in Section 1 and in Tables 1, 2 and 3, and by the decision issued on December 30, 1982 (47 FR 58372), are hereby released from management restrictions to protect their wilderness suitability. These lands, totaling 172,505 acres, will be managed for the full range of multiple uses other than wilderness and in conformance with existing land use plans and regulations for those areas.

This is a final decision of the Department of the Interior and is not subject to appeal under 43 CFR Part 4.

Garrey E. Carruthers,
Assistant Secretary.
April 11, 1983.

TABLE 1.—MODIFIED WILDERNESS STUDY AREAS—SPLIT ESTATE DELETED

WSA Name	Number	Old WSA acreage	Acres split-estate	Revised WSA acreage	County
High Rock Lake	NV-020-007	62,396	494	61,902	Humboldt.
South Egans	NV-040-168	96,996	80	96,916	White Pine/Lincoln/Nye.
Total (2 areas)			574		

TABLE 2.—MODIFIED WILDERNESS STUDY AREAS—BOUNDARY CHANGED TO DELETE SPLIT ESTATE

WSA Name	Number	Old WSA acreage	Acres split-estate	Revised WSA acreage	County
Parsnip Peak	NV-040-206	88,175	68	88,107	Lincoln.

TABLE 3.—ELIMINATED WILDERNESS STUDY AREAS—CONTIGUOUS AREAS WITHOUT WILDERNESS CHARACTERISTICS

WSA Name	Number	WSA acreage	County
Granite Springs	NV-040-066	23,327	White Pine.
Fish and Wildlife No. 1	NV-050-201	8,991	Lincoln/Clark.
Fish and Wildlife No. 2	NV-050-216	16,516	Clark.
Fish and Wildlife No. 3	NV-050-217	22,002	Clark.
Lime Canyon	NV-050-231	30,747	Clark.
Million Hills	NV-050-233	9,599	Clark.
Garret Buttes	NV-050-235	11,100	Clark.
Quail Spring	NV-050-411	12,225	Clark.
El Dorado	NV-050-423	11,069	Clark.
Ireteba Peaks	NV-050-438	13,374	Clark.
Total (10 areas)		158,950	

[FR Doc. 83-9890 Filed 4-13-83; 8:45 am]
BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-FC-130

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC-FC-81248. By decision of April 6, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board 1 approved the transfer to LOBO, INC., Albuquerque, NM, of Certificate No. MC-147551 (Sub-No. 2), issued February 10, 1981, and Permit No. MC-147551 (Sub-No. 3), issued June 30, 1982, to EL SYD, INC., Albuquerque, NM, authorizing the transportation over irregular routes of such commodities as are dealt in or used by distributors of beer, wine and alcholic beverages, between points in the U.S., under continuing contract(s) with New Mexico Beverage Company, and Richard Distributing Company, both of Albuquerque, NM, and corn starch (except in bulk), from Minnitt, TX, to points in CA. Transferee is a carrier holding authority under No. MC-153551. Representative: James C. Ash, 2524 Vermont NE, Albuquerque, NM 87110.

MC-FC-81288. By decision of April 7, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to WADE TRANSIT CORPORATION, Spartanburg, SC, of Certificate No. MC-155140, issued December 21, 1981, to PIEDMONT CARTAGE, INC., of Greenville, SC, authorizing the transportation of commodities in bulk, between points in SC, NC, GA, TN and AL. An application for temporary authority has been filed. Representative: David L. Dorrity, P.O. Box 8717, Greenville, SC 29604 (803) 268-4557.

Volume No. OP1-FC-131

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81169. By decision of April 6, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to LAPADULA EQUIPMENT CORPORATION, Cedarhurst, NY, of Certificate No. MC-159960, issued December 22, 1981 to LAPADULA & VILLANI, INCORPORATED, Cedarhurst, NY, authorizing transportation over irregular routes, or (1) interior woodwork, machinery, and building materials, between New York, NY, on the one hand, and, on the other, points within 60 miles of Columbus Circle, New York, NY, in Connecticut, New Jersey, and New York, (2) general commodities, with exceptions, between points in Union County, NJ, on the one hand, and, on the other, New York, NY, and (3) machinery, pipe, and pipe fittings, between points in Union County, NJ, on the hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New York, Pennsylvania, and Rhode Island. Transferee is not a carrier. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-MCFC-153

Decided: April 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81290. By decision of April 7, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to ROBERT J. SCHAEFFER, Geneva, OH, of the entire authority in Certificate No. MC 9045 Sub 1, issued June 6, 1944, to THE GENEVA TRANSFER COMPANY, Geneva, OH, authorizing the transportation of household goods as defined by the Commission, between points in Ashtabula and Lake Counties, OH, on the one hand, and, on the other, points in PA, NY, and MI. Representative: Charlene Schaeffer, 333 North Eagle St., Geneva, OH 44041.

MC-FC-81333. By decision of April 7, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to H.T. L. INC., d.b.a. HUNTER TRUCK LINE, of Council Bluffs, IA, of Certificate No. MC-105774 Sub 14, issued November 27, 1981, to JOHNSON TRUCK LINE, INC., of Osborne, KS, authorizing the transportation of *such commodities* as are dealt in by producers of copper and copper products, between the facilities of Kennecott Minerals Company, in AZ, NV, NM, and UT, on the one hand, and, on the other, points in the U.S. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114.

Volume No. OP3-MCFC-154

Decided: April 5, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC-FC-81177. By decision of April 5, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to ROYAL CREST DISTRIBUTORS, INC., Clayton, OH 45315, of Certificate No. MC-149164 Sub 6, and Permit No. MC-149164 Sub 7, issued December 24, 1981, respectively, to GENE'S INC., Brookville, OH 45309, authorizing the transportation generally of (1) *foodstuffs* (except in bulk) generally throughout the Midwest and portions of the Southwest, and (2) *dairy products and ice cream* throughout the same general territory, under contract(s) with the Kroger Co., of Cincinnati, OH. Applicant's Representative: Paul F.

Beery, 275 E. State St., Columbus, OH 43215. (614) 228-8575.

[FR Doc. 83-9657 Filed 4-13-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries to Team One at (202) 275-7992.

Volume No. OP1-126

Decided: April 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 166960, filed March 22, 1983. Applicant: RANGER TRANSFLEET, INC., 2050 Kings Rd., Jacksonville, FL 33203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522-0900, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—This application is directly related to petition for exemption, docketed MC-F-15217, published in this same Federal Register issue.

Volume No. OP1-128

Decided: April 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 166750, filed March 11, 1983. Applicant: A WORLD WIDE MOVING, INC., 5801 Rolling Rd., West Springfield, VA 22152. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006, (202) 466-3778. Transporting *household goods and furniture and fixtures*, between points in the U.S. (except AK and HI). Condition: Within 30 days of this publication, applicant must submit, in writing, a plan of action to avoid unlawful control under 49 U.S.C. 11323(a), or the application will be dismissed.

Note.—This application is directly related to MC-F-15198, continuance in control, published in the same Federal Register issue.

Volume No. OP1-133

Decided: April 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 541 (Sub-12), filed April 4, 1983. Applicant: THE NEW BRITAIN TRANSPORTATION CO., d.b.a. N.B.T. TOURS, 257 Woodlawn Rd., P.O. Box 1346, Berlin, CT 06037. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750-1112. Over regular routes transporting *passengers* between Stamford, CT and New York, NY over Interstate Hwy 95, serving all intermediate points.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce.

MC 40600 (Sub-7), filed April 4, 1983. Applicant: THE HATHAWAY

TRANSFER, INCORPORATED, 910 S. Belmont St., P.O. Box 518, Bellaire, OH 43906. Representative: F. James Hathaway, P.O. Box 518, Bellaire, OH 43906, (614) 676–3840. Transporting *food and related products*, between points in Belmont County, OH, on the one hand, and, on the other, points in Monongalia, Marion, Harrison, Barbour, Wetzel, Taylor, Tyler, and Preston Counties, WV.

MC 60430 (Sub-39), filed April 4, 1983. Applicant: FRIEDMAN'S EXPRESS, INC., P.O. Box 480, Wilkes-Barre, PA 18703. Representative: Maxwell A. Howell, 2554 Mass. Ave., N.W., Washington, DC 20008, (202) 483–8633. Tranporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NJ, NY, PA, DE, MA, CT, RI, MD and DC, on the one hand, and, on the other, points in WA, OR, CA, NV, UT and AZ.

MC 80730 (Sub-9), filed April 1, 1983. Applicant: MAGNOLIA TRANSPORTATION CO., INC., 5121 Oates Road, P.O. Box 24458. Representative: Lester R. Gutman, 1919 Pennsylvania Avenue, NW., Suite 500, Washington, DC 20006, (202) 828–5017. Transporting *machinery, metal products, building materials, and those commodities which because of their size or weight require the use of special handling or equipment*, between points in the U.S. (except AK and HI).

MC 142080 (Sub-24), filed April 1, 1983. Applicant: LITE TRANSPORT, INC., 480 Neponset St., Canton, MA 02021. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960, (617) 535–5430. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 142080 (Sub-25), filed April 4, 1983. Applicant: LITE TRANSPORT, INC., 480 Neponset St., Canton, MA 02021. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960, (617) 535–5430. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Seacoast Shippers' Association, Inc., of Allston, MA.

MC 149081 (Sub-4), filed March 28, 1983. Applicant: SUBURBAN TRAILS, INC., 750 Somerset St., New Brunswick, NJ 08901. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, (201) 666–5111. Over regular routes transporting *passengers*, (1) between Trenton, NJ and New Brunswick, NJ; from Trenton, NJ over U.S. Hwy 206 to junction NJ Hwy 27 in the Borough of Princeton, NJ, then over NJ Hwy 27 to New Brunswick, NJ, and return over the same route, (2) between junction U.S. Hwy 1 and Mercer County Hwy 571 in West Windsor Township, NJ and junction Mercer County Hwy 571 and NJ Hwy 27 in the Borough of Princeton, NJ; from junction U.S. Hwy 1 and Mercer County Hwy 571 in West Windsor Township, NJ over Mercer County Hwy 571 (Washington Rd) to junction NJ Hwy 27 in the Borough of Princeton, NJ, and return over the same route; (3) between junction NJ Hwy 27 and Finnegan Lane at or near the South Brunswick Township, NJ-Franklin Township, NJ boundary line and junction Finnegan Lane and U.S. Hwy 1 at or near the South Brunswick Township, NJ-North Brunswick Township, NJ boundary line; from junction NJ Hwy 27 and Finnegan Lane at or near the South Brunswick Township, NJ-Franklin Township, NJ boundary line over Finnegan Lane to junction U.S. Hwy 1 at or near the South Brunswick Township, NJ-North Brunswick Township, NJ boundary line, and return over the same route; (4) between junction NJ Hwy 33 and access roads to Interstate Hwy 95 at Interchange No. 8 in East Windsor Township, NJ and Trenton, NJ; from junction NJ Hwy 33 and access roads to Interstate Hwy 95 at Interchange No. 8 in East Windsor Township, NJ over such access roads to Interstate Hwy 95, then over Interstate Hwy 95 to access roads at Interstate Hwy 95 Interchange No. 7A in Washington Township, NJ, then over such access roads to junction Interstate Hwy 195, then over Interstate Hwy 195 to Trenton, NJ, and return over the same route; (5) between junction Interstate Hwy 195 and South Broad St. in Hamilton Township, NJ and Trenton, NJ over South Broad St., (6) between South Brunswick Township, NJ and East Brunwick, NJ; from junction Middlesex County Hwy 535 and NJ Hwy 32 in South Brunswick Township, NJ over Middlesex County Hwy 535 to access roads to NJ Hwy 18 in East Brunswick, then over such access roads to NJ Hwy 18 in East Brunswick, NJ, and return over the same route, (7) between Monroe Township, NJ and East Brunswick, NJ; from junction NJ Hwy 32 and Applegarth Rd in Monroe Township, NJ over NJ Hwy 32 to junction East Railroad Ave in Jamesburg, NJ, then over East Railroad Ave to junction Stockton Ave, then over Stockton Ave to junction Lincoln Ave, then over Lincoln Ave to junction Helmetta Rd, then over Helmetta Rd to junction Main St at or near the Monroe Township, NJ-Helmetta, NJ boundary line, then over Main St to junction Old Bridge-New Brunswick Turnpike in East Brunswick, NJ, then over Old Bridge-New Brunswick Turnpike to junction access roads to NJ Hwy 18 near the junction of Main St. and Old Bridge-New Brunswick Turnpike, then over NJ Hwy 18 access roads to NJ Hwy 18, then over NJ Hwy 18 to junction access roads to Interstate Hwy 95 at Interchange No. 9 in East Brunswick, NJ, then over such access roads to Interstate 95, and return over the same route except operating directly from NJ Hwy 18 to Main St. via connecting access road in East Brunswick, NJ, (8) between points in East Brunswick, NJ; from the East Brunswick Transportation and Commerce Center in East Brunswick, NJ over Tices Lane to junction NJ Hwy 18 in East Brunswick, NJ, (9) between points in East Brunswick, NJ; from junction NJ Hwy 18 and access roads to Interstate Hwy 95 in East Brunswick, NJ over NJ Hwy 18 to junction Old Bridge Turnpike, then over Old Bridge Turnpike to the East Brunswick Transportation and Commerce Center in East Brunswick, NJ, and return over the same routes, and (10) serving all intermediate points in (1) thru (9) above.

Note.—Applicant intends to tack the authority in this proceeding with its existing authority.

Note.—Applicant seeks to provide regular route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(b).

MC 153400 (Sub-1), filed April 4, 1983. Applicant: C.S.I. TRUCKING, INC., 15430 58th Avenue North, Stillwater, MN 55082. Representative: Philip W. Getts, 930 Lumber Exchange, 10 South Fifth Street, Minneapolis, MN 55402, (612) 339–7633. Transporting *fertilizer and fertilizer compounds*, (a) between ports of entry on the international boundary line between the Untied States and Canada in ND and MN, on the one hand, and, on the other, points in IA, MN, ND, SD, and WI, and (b) between points in IA, MN, ND, SD and WI.

MC 156011 (Sub-1), filed March 31, 1983. Applicant: VICTOR R. CRANE, JR., d.b.a. MANATOR, 3920 Serenity Hills Dr., Vacaville, CA 95688. Representative: Ara H. Shirinian, 100 Pine St., No. 2550,. San Francisco, CA 94111, (707) 448–3356. Transporting *general commodities*, (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

MC 159680 (Sub-2), filed April 1, 1983. Applicant: CAMP TRUCKING INCORPORATED, 1408 West Main Street, Forest City, NC 28043.

Representative: Lee Camp (same address as applicant), (704) 248–1921. Transporting *general commodities*, (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 165321 filed April 1, 1983. Applicant: LARRY RICE, d.b.a. LARRY RICE TRUCKING, Rte. 1, Box 6757, Grayson, KY 41143. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212)–263–2078. Transporting *general commodities*, (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Can-Do Stoker, Inc., of Grayson, KY.

MC 167111, filed March 28, 1983. Applicant: C. R. CLARK TRUCKMEN, INC., 115 Wygant Rd., Horseheads, NY 14845. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities*, (except classes A and B explosives, household goods and commodities in bulk), (1) between points in NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) between points in PA, on the one hand, and, on the other, points in DE, IN, MD, NJ, and TN.

MC 167171, filed April 1, 1983. Applicant: E & K TRUCKING COMPANY, Quarry Rd., West Stockbridge, MA 01266. Representative: Raymond A. Richards, 35 Curtice Pk., Webster, NY 14580, (716) 265–9510. Transporting *Commodities in bulk*, between points in CT, ME, MA, NH, NY, RI, and VT.

MC 167181 filed April 1, 1983. Applicant: VANGUARD TRANSPORTATION, INC., 1721 Thorne Road, Tacoma, WA 98421. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 839–3050. Transporting *general commodities* (except classes A and B explosives), between points in AK, AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY.

MC 167200, filed April 4, 1983. Applicant: E. L. LAWSON TRUCKING, INC., 135 Guildhall Rd., Rochester, NY 14623. Representative: Ronald J. Axelrod, 2425 Clover St., Rochester, NY 14618, (716)–271–4470. Transporting *Transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with General Motors Corporation (Rochester Products Division), of Rochester, NY.

MC 167210, filed April 4, 1983. Applicant: RONNIE CHANDLER, d.b.a. CHANDLER TRUCKING, Rt. 1, Box 193 D, Mason, TN 38049. Representative: Ronnie Chandler (same address as applicant), (901) 476–2034. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in AL, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NE, NV, NM, NY, NC, OH, OR, PA, SC, TN, TX, UT, VA, WV, WI, and WY.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–214

Decided: April 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 28956 (Sub-27), filed March 28, 1983. Applicant: McKAY'S TRUCK LINE, INC., P.O. Box 634, Albany, OR 97321. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *pulp, paper and related products*, between points in OR, WA, CA, and ID.

MC 109887 (Sub-4), filed March 28, 1983. Applicant: WEST END MOVING & STORAGE CO., INC., 241 Pine St., P.O. Box 3374, Bridgeport, CT 06605. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. Transporting *general commodities* (except classes A and B explosives, houshold goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Philips Medical Systems, Inc., of Shelton, CT, and its affiliate Philips Ultrasound, Inc., of Santa Ana, CA.

MC 119766 (Sub-2), filed March 29, 1983. Applicant: NATIONAL OIL & SUPPLY CO., d.b.a. ELLIS TRANSPORT, 2345 ½ W. Kearney, Springfield, MO 65803. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804, (417) 883–7311. Transporting (1) *petroleum natural gas, and their products*, and (2) *liquid animal feed*, between points in AR, CO, IA, IL, KS, LA, MO, NE, OK, TN, and TX.

MC 149377 (Sub-2), filed March 28, 1983. Applicant: WARRENVILLE CARTAGE CO., 5500 W. 47th St., Chicago, IL 60638. Representative: Wilmer B. Hill 366 Executive Bldg., 1030 Fifteenth St., NW, Washington, DC 20005, (202) 296–5188. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *food and related products*, between points in CA, on the one hand, and, on the other, points in U.S. (except AK and HI).

Volume No. OP4–216

Decided: April 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 118746 (Sub-7), filed March 25, 1983. Applicant: CULLMAN BANANA SUPPLY TRUCKING CORPORATION, Rt. #2, Box 41, Hanceville, AL 35077. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 120357 (Sub-3), filed April 1, 1983. Applicant: E & P TRUCK COMPANY, INC., 112200 Upriver Rd., Corpus Christi, TX 78410. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701, (512) 476–8066. Transporting *Mercer commodities, machinery*, and *commodities which because of their size or weight require the use of special handling or equipment*, between points in CO, LA, MN, MS, ND, NM, OK, SD, TX, and WY.

MC 151807 (Sub-4), filed April 1, 1983. Applicant: FWC, INC., Rt. 2, Box 123, Rustburg, VA 24588. Representative: Frank B. Hand, Jr., Rt. 1, Box 145–G, Berryville, VA 22611 (703) 662–0927. Transporting *furniture and fixtures*, between points in VA and NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151866 (Sub-6), filed March 28, 1983. Applicant: R. L. JONES & SONS, INC., 4900 E. 12th St., Kansas City, MO 64127. Representative: Tom B. Kretsinger, 20 E. Franklin, Liberty, MO 64068, (816) 718–6000. Transporting *cosmetics and toilet preparations*, between points in the U.S., under continuing contract(s) with Blankinship Distributing, Inc., of Kansas City, MO.

MC 151927 (Sub-2), filed March 29, 1983. Applicant: COLORADO & EASTERN, INC., 4839 W. 128th Place, Alsip, IL 60658. Representative: J. H. McGuire (same address as applicant), (312) 385–6850. Transporting (1) *food and related products*, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, IL, IN, IA, MI, MN, MO, OH, KY, TN and WI.

MC 156707 (Sub-3), filed April 1, 1983. Applicant: MWK TRANSPORT CO., INC., 5401 W. Donges Bay Rd., Mequon, WI 53092. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household goods and

commodities in bulk), between points in the U.S. (except AK and HI).

MC 157416 (Sub-4), filed March 28, 1983. Applicant: BURGESS TRANSPORTATION COMPANY, INC., Route 2, Box 336, Ashford, AL 36312. Representative: Stephen T. Etheredge, P.O. Box 1193, Dothan, AL 36302, (205) 793-3377. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in NE, OK, NM, KS, and CO, on the one hand, and, on the other, points in LA, MS, AL, GA, FL, TN, KY, NC, SC and AR.

MC 165437, filed March 31, 1983. Applicant: DAVE R., TIMOTHY D., AND THOMAS C. JOHANNING, d.b.a. DAVE R. JOHANNING & SONS, R.R. 4, Box 125, Park Rapids, MN 56470. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237-4223. Transporting *building materials*, between points in MN and ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166367, filed March 28, 1983. Applicant: ROBERT AMBLER, Rt. 2, Box 122, Burleson, TX 76028. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104, (817) 332-4415. Transporting *trailers*, between points in the U.S. (except AK and HI), under continuing contract(s) with Komfort Industries, Inc., of Burleson, TX, and its subsidiaries.

Mc 166376, filed April 1, 1983. Applicant: MICHAEL C. HARMON, d.b.a. HARMON TRUCKING, P.O. Box 2055, 500 East Blvd., Rapid City, SD 57701. Representative: Stephen F. Grinnell, 121 South 8th St., 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *food and related products*, between points in IL, IA, KS, MN, MO, NE, ND, SD, and WI.

MC 167126, filed March 29, 1983. Applicant: VICTOR A. ALLMON, 3521 28th St. Lewiston, ID 83501. Representative: Victor A. Allmon (same address as applicant), (208) 743-4287. (A) Transporting *machinery, construction materials, and those commodities which because of their size or weight require special handling and equipment*, between those points in the U.S. on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canda, and points in IL and KY. (B) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between those points in the U.S. on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada, and points in IL and KY.

Note.—Because this application includes issues of Public Convenience and Necessity, as well as Fitness Only, it will be published in two (2) volumes of this **Federal Register** issue. Part A will be published in Vol. #216. Part B will be published in Vol. #217.

MC 167127, filed March 30, 1983. Applicant: RAIDER REFRIGERATED TRANSPORT, INC., P.O. Box 27, Mebane, NC 27302. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 635-4711. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Nutrition Pak, Inc., of Mebane, NC.

MC 167136, filed March 28, 1983. Applicant: BELMONT TRANS., INC., 15 Chelsea St., East Boston, MA 02128. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181 (617) 235-5571. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of confectioneries, between points in the U.S., under continuing contract(s) with Deran Confectionery-Borden, Inc., of Cambridge, MA.

[FR Doc. 83-9859 Filed 4-13-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitnessonly); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings.

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new

entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team Three at (202) 275-5223.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OP3-149

Decided: April 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 147064 (Sub-3), filed March 24, 1983. Applicant: CANDLEBROOK DELIVERY SERVICE, INC., P.O. Box 461, King of Prussia, PA 19406. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., 426 Cottman St., Jenkintown, PA 19046, (215) 576-0131. Transporting *Shipments* Weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165405, filed March 24, 1983. Applicant: CONTINENTAL MBS COACHES, INC., 22 Public Square, P.O. Box 1075, Columbia, TN 38401 Representative: Ronald McCarthy (same address as applicant), (615) 381-1244. Transporting *passengers*, in charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter transportation.

MC 166975, filed March 22, 1983. Applicant: CARNESI ENTERPRISES CO., INC., 350 Coney Island Ave., Brooklyn, NY 11218. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239-4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167045, filed March 22, 1983. Applicant: C. B. TRUAX TRUCK BROKERAGE, Route 1. Box 77, Warfordsburg, PA 17267. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739-4860. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167054, filed March 25, 1983. Applicant: WARREN-MERRITT ENTERPRISES, INC., 114 Indiana St., Hot Springs, AR 71901. Representative: James M. Duckett, 221 W. 2nd St., Suite 411, Little Rock, AR 72201, (501) 375-3022. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

For the following, please direct status calls to Team 1 at 202-275-7992.

Volume No. OP1-132

Decided: April 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 115581 (Sub-6), filed March 31, 1983. Applicant: THE CONNECTICUT COMPANY, 2909 Main St., Hartford, CT 06120. Representative: John E. Silliman, 101 Pearl St., P.O. Box 3197, Hartford, CT 06103, (203) 549-4500. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately finded charter and special transportation.

MC 142630 (Sub-7), filed March 28, 1983. Applicant: FUGAZY EXPRESS, INC., 767 3rd Ave., New York, NY 10017. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173. Transporting *passengers and their baggage*, in charter and special operations, beginning and ending at Atlantic City, NJ, and extending to points in NJ and NY, under continuing contract(s) with Adamar of New Jersey, Inc., of Atlantic City, NJ.

MC 151790 (Sub-2), filed April 4, 1983. Applicant: FLEXIBLE FLYER TRANSIT CO., INC., 2010 S. Beltline Blvd., Columbia, SC 29202. Representative: Timothy C. Ross (same address as applicant), (803) 799-7190. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 162370, filed March 29, 1983. Applicant: INTERNATIONAL FUNWAY CLUB, 2025 Caspian Ave., Long Beach, CA 90810. Representative: D. Michael Trainotti, 555 E. Ocean Blvd., #716 Long Beach, CA 90802, (213) 590-8621. Transporting *passengers*, in charter and special operations, beginning and ending at points in Los Angeles County, CA and extending to Las Vegas, Reno, Carson City, and points in Washoe and Douglas Counties, NV, points in El Dorado and Placer Counties, CA, points in Coconino and Mohave Counties, AZ, and Salt Lake City, UT.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167180, filed March 31, 1983. Applicant: RICHARD F. DAVIS, d.b.a. DAVCON, INC., 3931 Oberlin Ct., Tucker, GA 30084. Representative: Richard F. Davis (same address as applicant), (404) 938-4812. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC-167190, filed March 31, 1983. Applicant: VIRGIL L. LUKKEN, d.b.a. VIRGIL L. LUKKEN TRUCKING, 450 Sandy Bend Rd., Castle Rock, WA 98611. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608)-742-3579. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 16791, filed April 1, 1983. Applicant: FUN TOURS, 4407-57th St., Lubbock, TX 79414. Representative: John W. McDaniel (same address as applicant), (806) 797-2084. Transporting *passengers*, in charter and special operations, beginning and ending at points in Lubbock County, TX, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167211, filed April 4, 1983. Applicant: HARBOR BAY WAREHOUSE CO., INC., 104 Harbor Drive, Jersey City, NJ 07305. Representative: A. David Millner, P.O. Box Y, 7 Becker Farm Road, Roseland, NJ 07068, (201) 992-2200. As a *broker* of *general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-215

Decided: April 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 2677 (Sub-3), filed March 29, 1983. Applicant: JAMES S. EDGELL, Box 71, Centuria, WI 54824. Representative: James S. Edgell (same address as applicant), (715) 646-2314. Transporting *passengers*, in charter and special operations, beginning and ending at points in MN and WI, and extending to points in the U.S. (except AK and HI).

Note—Applicant seeks to provide privately-funded charter and special transportation.

MC 41257 (Sub-17), filed March 28, 1983. Applicant: NORTH STAR LINE, INC., 341 Elsworth, SW, Grand Rapids, MI 49503. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685, (616) 941-5313.Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4-217

Decided: April 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 121016 (Sub-4), filed April 1, 1983. Applicant: ENGLANDER COACH LINES INC., 148 American Legion Dr., P.O. Box 631, North Adams, MA 01247. Representative: William C. Gay (same address as applicant), (413) 662-2016. Transporting *passengers*, in special operations, beginning and ending at points in Berkshire and Franklin Counties, MA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special transportation.

MC 157317 (Sub-1), filed March 30, 1983. Applicant: THE GRAY LINE, INC., 420 Taylor St., San Francisco, CA 94102. Representative: L. C. Major, Jr., 6121 Lincolnia Rd., Suite 304 Overlook Bldg., P.0. Box 11278, Alexandria, VA 22312, (703) 750-1112. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

NOTE.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162986 (Sub-4), filed March 28, 1983. Applicant: TRIPLE "S" LEASING, INC., P.O. Box 266, Vincennes, IN 47591. Representative: Don R. Smith, 806 Emison Ave., Vincennes, IN 47591, (812) 882-3109. Transporting *shipments weighing 100 pounds or less* transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI). As a *broker of general commodities* (except household goods), between points in the U.S.

MC 166946, filed March 31, 1983. Applicant: PAUL E. BITTING, d.b.a. TRANSPORTATION SERVICES, 10 Bellview Rd., Marysville, PA 17053. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375, (212) 263-2078. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167106, filed March 29, 1983. Applicant: THOMAS BEALS CARR, 401 E. 33rd St., Charlotte, NC 28205. Representative: Thomas Beals Car (same address as applicant), (704) 374-1515. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167126, filed March 29, 1983. Applicant: VICTOR A. ALLMON, 3521 28th St., Lewiston, ID 83501. Representative: Victor A. Allmon (same address as applicant), (208) 743-4287. (A) Transporting *machinery, construction materials, and those commodities which because of their size or weight require special handling and equipment*, between those points in the U.S. on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada, and points in IL and KY. (B) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between those points in the U.S. on the west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada, and points in IL and KY.

Note.— Because this application includes issues of Public Convenience and Necessity, and well as Fitness Only, it will be published in two (2) volumes of this **Federal Register** issue. Part A will be published in Vol. #216. Part B will be published in Vol. #217.

MC 167147, filed March 30, 1983. Applicant: LARRY RUFUS WOOK, Rt. #3, Box 559, King George, VA 22485. Representative: Larry Rufus Wood (same address as applicant), (703) 775-5822. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167156, filed March 31, 1983. Applicant: RAYMOND R. WOODROME, 21302 Tophill Dr., Spring, TX 77379. Representative: Raymond R. Woodrome (same address as applicant), (713) 353-5659. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 167176, filed April 1, 1983. Applicant: JACK L MITCHELL, d.b.a. MITCHELL TRUCKING, 1221 North Olive, Wellington, KS 67152. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

[FR Doc. 83-9860 Filed 4-13-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: April 6, 1983.

American Pacific Express, Inc. (Certificate No. MC-155070), Schneider Transport, Inc. (Certificate No. MC-51146 and Permit No. MC-151110), Schneider Tank Lines, Inc. (Certificate No. 110988), Distribution Service Systems, Inc. (Certificate No. MC-118159), WNI, Inc. (Certificate No. 141871), Trans-National Truck, Inc. (Certificate No. MC-133655), Contract Distribution Systems, Inc. (Certificate No. MC-151138, and Permit No. MC-144232), National Bulk Transport, Inc. (Certificate No. 143594) and National Transportation Systems, Inc. (Certificate No. MC-149145) petition for waiver of Subpart B (except for Paragraph (b) of Section 1057.11) of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057).

We find:

Petitioners are commonly controlled and administer a common safety program.

Granting the Petition will permit more efficient and economical operations.

There is no public policy consideration or goal which overrides petitioners' goal of reducing energy consumption and other costs.

A denial of the Petition offers no protection to the public and would prevent greater efficiency, fuel economy, and costs savings.

It is ordered:

American Pacific Express, Inc. (Certificate No. MC-155070), Schneider Transport, Inc. (Certificate No. MC-51146 and Permit No. MC-155070), Schneider Tank Lines, Inc. (Certificate No. 110988), Distribution Service Systems, Inc. (Certificate No. MC-118159), WNI, Inc. (Certificate No. 141871), Trans-National Truck, Inc. (Certificate No. MC-133655), Contract Distribution Systems, Inc. (Certificate No. MC-151138, and Permit No. MC-144232), National Bulk Transport, Inc. (Certificate No. 143594) and National Transportation Systems, Inc. (Certificate No. MC-149145), for waiver of Subpart B except Paragraph (b) of § 1057.11 is granted solely with respect to equipment leased among the petitioners, provided petitioners or their authorized representatives agree in writing that control and responsibility for the operation of the equipment shall be that of the lessee from time possession is taken by lessee and the receipt required under § 1057.11(b) is given to the lessor until possession is returned to the lessor and the receipt given to the lessee or given to another authorized carrier in an interchange of equipment.

The waiver granted in this decision does not affect the application of the leasing regulations to a lease between an owner-operator and the lessor carrier.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-9855 Filed 4-13-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11443*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contracting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume No. OP1-125

Decided: April 6, 1983.

Ryder Transportation, Inc.—Continuance-in-Control-Exemption—Ranger Transfleet, Inc.

MC-F-15217, Ryder Transportation, Inc. (RTI) seeks an exemption from the requirement under section 11343 of prior regulatory approval for continuance in control of Ranger Transfleet, Inc. RTI, a non-Carrier holding company is controlled by IU Transportation Services, Inc. (IUTS), and in turn by IU International Corp. (IU). IU controls Ligon Specialized Hauler, Inc. (MC-167225). IU Controls through Special Carriers, Inc., (a holding company), Gemini Trucking, Inc. (MC-150939), Pioneer Trucking, Inc. (MC-1517070), and Customized Transportation, Inc. (MC-152620). IU also controls through IUTS, Ryder Truck Lines, Inc. (RYDER) (MC-2900), Independent Freightway, Inc. (MC-161864), and Pacific Intermountain Express Co. (PIE) (MC-730). PIE also controls Vanguard Contract Carriers, Inc. (MC-157596). RYDER also controls Ryder Truck Lines, Ltd. (MC-154915), RTL Holdings, Inc. (MC-130636), and holds a voting trust certificate for the shares of Ryder Forwarding, Inc. (FF-341). Ranger Transfleet, Inc. has filed a directly related application docketed MC-16690, published in this same **Federal Register** issue.

Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209.

Comments should refer to No. MC-F-15217.

Volume No. OP1-127

Decided: April 7, 1983.

IVL Corporation, Continuance, in Control Exemption, A World Wide Moving, Inc., Interstate Van Lines, Inc., and Ace Van & Storage, Inc.

MC-F-15198. IVL Corporation seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of A World Wide Moving, Inc., Interstate Van Lines, Inc., and Ace Van & Storage, Inc. Applicant (a non-carrier holding company) also controls Interstate International, Inc. (a regulated freight forwarder) which results in an unlawful common control, in violation of 49 U.S.C. 11323(a).

Applicant's representative has submitted a plan whereby he proposes to transfer ownership of Interstate International from itself to Interstate Van Lines, Inc. so that Interstate Van Lines, Inc. will control Interstate International. This would not avoid the violation of 49 U.S.C. 11323(a) because IVL would still be in a position to control Interstate International through its control of Interstate Van Lines, Inc.

Applicant must submit in writing within 30 days of this publication a plan of action to avoid unlawful control under 49 U.S.C. 11212(a), or the petition for exemption will be dismissed.

Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Marshall Kragen, 1919 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20006.

Comments should refer to No. MC-F-15198.

Volume No. OP1-129

Decided: April 8, 1983.

Robert H. Shepard and John A. Pellman—Continuance in Control Exemption—Military Pack and Crate, Inc., Bob Shepard Enterprises, Inc., d.b.a. Ace Van & Storage Company, Escondido Storage Co., and Mission Van & Storage Company, Inc.

MC-F-15211. Robert H. Shepard and John A. Pellman, who jointly control MPCI, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Military Pack and Crate, Inc. (No. MC-163141), Bob Shepard Enterprises, Inc. doing business

as Ace Van & Storage Company (No. MC-136200), Escondido Storage Co. (No. MC-135211), and Mission Van & Storage Company, Inc. (No. MC-126340).

Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423; and

(2) Petitioner's representative: Hayden J. Trubitt, 701 B Street, Suite 2100, San Diego, CA 92101-8197.

Comments should refer to No. MC-F-15211.

Volume No. OP2-165

Decided: April 8, 1983.

Armored Transport, Inc.—Continuance in Control Exemption—Continental Security Guards, Inc. and Armored Transport of Nevada, Inc.

MC-F-15170. Armored Transport, Inc. (ATI) (MC-11702), and in turn its sole stockholder, Robert G. Irvin, seek an exemption from the requirement of prior regulatory approval for their continuance in control of ATI's subsidiaries, Armored Transport of Nevada, Inc. (MC-139096 and MC-142621) and Continental Security Guards, Inc. (MC-164107) when the latter institutes operations as an interstate carrier.

Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioners' representative: John C. Russell, 1545 Wilshire Boulevard, Suite 606, Los Angeles, CA 90017.

Comments should refer to No. MC-F-15170.

Volume No. OP2-166

Decided: April 8, 1983.

MC-F-15213. Seigles Express, Inc. (MC-54200), and in turn, Walter Riley who controls Seigles Express, Inc., seek an exemption from the requirement under Section 11343 of prior regulatory approval for its continuance in control of G.O.D., Inc. (MC-166962).

Send comments to:

(1) Motor Section, Team 2, Room 2379, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioners' representative: Ronald N. Cobert, Joseph Michael Roberts, 1730 M Street, NW, Ste. 501, Washington, DC 20036.

Comments should refer to No. MC-F-15213.

Volume No. OP3-MCF-155

Decided: April 8, 1983.

Ed Wolfe Trucking, Inc.—Purchase Exemption—Shoemaker Trucking Company (Loren Wetzel, Trustee-in-Bankruptcy).

MC-F-15205. El Wolfe Trucking, Inc. (Wolfe (MC-145480) seeks an exemption from the requirements under section 11343 of prior regulatory approval for its purchase of that portion of the operating rights of Shoemaker Trucking Company (Shoemaker) found in paragraphs (1), (7), (8), (21) and (31) of Certificate No. MC-138875 (Sub-No. 312)X, namely (a) *building materials and lumber and lumber and wood products* between points in Oregon, Washington and those in that part of Idaho south of the northern boundary of Idaho County, on the one hand, and, on the other, points in Utah and Colorado, (b) *building material, lumber and wood products and metal products* between points in Oregon and Washington, on the one hand, and, on the other, points in Utah, (c) *metal products* between points in Clackamas, Washington and Multnomah Counties, OR, on the one hand, and, on the other, points in those parts of Washington and Oregon east of the Cascade Mountains, (d) *building materials and such commodities* as are dealt in or used by manufacturers of transportation equipment between points in Michigan, California, and Ohio, on the one hand, and, on the other, points in Oregon and Washington, and (e) *chemicals and related products* between points in Wyoming, and on the one hand, and, on the other, points in Oregon and Washington.

In addition, Wolfe seeks to purchase the underlying certificates in No. MC-138875 (Sub-Nos. 37, 194F, 289F, 150F, 160F, and 155F).

Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's Representative: Philip G. Skofstad, 529 SE Grand Ave., Portland, OR 97214.

Comments should refer to No. MC-F-15205.

[FR Doc. 83-9858 Filed 4-13-83; 8:45 am]

BILLING CODE 7035-01-M

[No. 39136 et al.[1]]

Motor Carriers; State Freight, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Two motor contract carriers have each requested exemption from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted for future as well as existing contracts.

DATES: Comments are due on April 29, 1983. The sought relief will become final on May 16, 1983, unless in response to timely-filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Robin Williams, (202) 275-7697

or

Howell I. Sporn, (202) 275-7691

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. 10702(b), 10761(b), and 10762(f).

The two motor contract carriers identified in the footnote filed petitions requesting exemptions under the three exemption provisions mentioned above. As the issues presented and the relief sought by these petitioners are substantially similar, we are consolidating them for notice purposes.

The petitioners hold, collectively, contract carrier permits MC-110525 (Sub-Nos. 1324 and 1324) and MC-121288 (Sub-No. 3) authorizing transportation of general commodities and malt beverages for several shippers. The petitioners argue, generally, that the tariff filing requirement is costly and represents an undue burden on their ability to meet continually changing market demands and diverse requirements of the shipping public. They assert that they are interested in avoiding unnecessary expenses, delays and burdens which hamper their efforts to provide economical and efficient service. They also argue that the Motor Carrier Act of 1980 encourages the Commission to remove obstacles which

[1] This proceeding embraces two separate petitions for exemption filed by State Freight, Inc., No. 39136, and Chemical Leaman Tank Lines, Inc, No. 38967 (Sub-No. 1).

keep contract carriers from realizing their full potential.

One petitioner, Chemical Leaman Tank Lines, Inc., requests that the exemptions sought apply to both existing and future contracts, and states that it will provide interested parties, upon a written request, with copies of its rates. It also holds contract authority under Sub-No. 1323, for which it already has obtained an exemmption from tariff filing in No. 38967.

We see no reason to deny these carriers the savings to be realized from a tariff filing exemption.[2] It appears that exemptions of these carriers from the requirements that they file tariffs covering their contract operations is consistent with the public interest and the transportation policy of 49 U.S.C. 10101.

We further conclude that an exemption is justified for future contracts and services. Previously we consistently denied exemptions for future contracts and services. We found that because the terms and scope of those contracts are unknown, any exemption of future contracts could only be based on general findings about the continuing need for contract filing requirements for any contract carrier. However, after weighing the advantages and disadvantages to the parties involved and to the public, we conclude that the exemption of these carriers from the requirement that they file tariffs governing their future contract operations, is warranted.[3] The requirement that a contract carrier file a separate exemption request for each new contract is unduly burdensome and time-consuming for both the carrier and the Commission. We also recognize that, for these carriers and their contract shippers, the savings to be realized from a tariff filing exemption for future contracts will be just as real and just as important as those realized from an exemption for existing contracts. Moreover, allowing these contract carriers to participate more freely in the marketplace is in the public interest and is consistent with the national transportation policy.

We provisionally grant petitioners exemption from the contract carrier tariff filing requirements for future as well as existing contracts. If we receive timely filed adverse comments, we will issue a further decision addressing them and deciding whether this provisional approval ought to be withdrawn or permitted to become final.

This action does not significantly affect either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: April 4, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor concurred in part and dissented in part. He would have granted the exemptions only for present contracts.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-9656 Filed 4-13-83; 8:45 am]

BILLING CODE 7035-01-M

[2] A proceeding to investigate the exemption of motor contract carriers on an industry-wide basis has been instituted in Ex Parte No. 165, *Exemption of Motor Contract Carriers from Tariff Filing Requirements*, 47 FR 57303 (December 23, 1982).

[3] See No. 38983, Red & Tan Tours—*Petition for Exemption from the Tariff Filing Requirements* (not printed), decided February 24, 1983.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances, Registration, Abbott Laboratories

By Notice dated December 22,, 1982, and published in the **Federal Register** on January 6, 1983, (48 FR 757), Abbott Laboratories, 14th and Sheridan Road, Attention: Customer Service D-345, North Chicago, Illinois 60064, made applicaton to the Drug Enforcement Administration to be registered as a bulk manufacturer of Pentobarbital (2270), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54.(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated April 5, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 83-9885 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances, Registration; Aerojet Strategic Propulsion Co.

By Notice dated November 30, 1982, and published in the **Federal Register** on December 8, 1982, (47 FR 55349), Aeroject Strategic Propulsion Company, Highway 50 At Hazel Avenue, P.O. Box 15699C, Sacramento, California 95813, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: April 6, 1983.

Gene R. Haislip

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-9884 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances, Registration; Arenol Chemical Corp.

By Notice dated October 21, 1982, and published in the **Federal Register** on October 28, 1982, (47 FR 47948), Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II.
Methamphetamine (1105)	II.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 6, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-9886 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-4]

Cobblestone Pharmacy; Clinton, Mississippi; Hearing

Notice is hereby given that on December 15, 1982, the Drug Enforcement Administration, Department of Justice, issued to Cobblestone Pharmacy an Order To Show Cause as to why the Drug Enforcement Administration should not deny its application, executed on March 22, 1982 for registration as a retail pharmacy under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, April 26, 1983 in Courtroom No. 2, Hinds County Courthouse, Pascagoula Street, Jackson, Mississippi.

Dated: April 6, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-9683 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances, Registration; Johnson Matthey, Inc.

By Notice dated November 4, 1982, and published in the **Federal Register** on November 12, 1982, (47 FR 51242), Johnson Matthey, Inc., 1401 King Road, West Chester, Pennsylvania 19380, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Fentanyl Citrate (9811), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: April 6, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-9687 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

Revocations of Registrations; Lawson & Sons Pharmacy and Fenwick Pharmacy

On January 7, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, (DEA) directed Orders to Show Cause to revoke DEA Certificate of Registration AL1440798, issued to Lawson & Sons Pharmacy, 3415 Hamilton Street, Hyattsville, Maryland 20782; and Certificates of Registration AF5542712 and AF1440774 issued to Fenwick Pharmacy, 14310 Coastal Highway, Ocean City, Maryland 21842. The statutory predicate under 21 U.S.C. 824(a) for the proposed revocation was the conviction on March 26, 1982, in the United States District Court for the District of Maryland, of Alfred M. Lawson, the former owner of the Respondent pharmacies of felony convictions relating to controlled substances. Respondents, through counsel, waived their opportunity for a hearing in this matter and submitted written statements regarding their position on the matters of fact and law involved pursuant to 21 CFR 1304.54(c). The Acting Administrator has considered this well written statement in determining the course of action to follow in this matter.

The Acting Administrator finds that Alfred M. Lawson was convicted of one count of conspiracy in violation of 21 U.S.C. 846, and 18 counts of distribution of controlled substances and in aiding and abetting their distribution, in violation of 21 U.S.C. 841(a)(1) and 18 U.S.C. 2. The Acting Administrator further finds that the United States Court of Appeals for the Fourth Circuit affirmed Lawson's conviction in *United States* v. *Lawson*, 682 F.2d 480 (4th Cir. 1982) and the Supreme Court denied certiorari on November 8, 1982.

Based upon an examination of portions of the trial transcript and facts set out in the opinion of the Circuit Court, the Acting Administrator finds that as early as 1973 one Ronald Vance Smith brought large numbers of Preludin prescriptions written by a Washington, D.C. physician for persons other than Smith to the Hyattsville store. These prescriptions were filled primarily by Thomas Lane, the managing pharmacist at the Hyattsville store. Smith stopped bringing the Preludin prescriptions there after drug wholesalers agreed to a moratorium of distribution of Preludin in the Washington, D.C. area. In 1976, Smith began to bring Preludin and Tuinal prescriptions to Fenwick Pharmacy in Ocean City, a resort community on Maryland's eastern shore. All of these prescriptions were written by Dr. Lynn Possinger, a Philadelphia osteopath. Possinger testified that Smith, using the name "Richard Vance", first visited him in late 1974 or early 1975. Possinger wrote prescriptions in fictitious names for Smith, selecting names at random from the Philadelphia telephone directory. Possinger sold Smith prescriptions for $10 to $15 each and wrote Smith 10 to 15 prescriptions a day. In late 1976, Smith began to submit his bogus prescriptions at Fenwick Pharmacy. In a five month period Smith bought 495 fictitious Preludin and 250 fictitious Tuinal prescriptions written by Dr. Possinger to Fenwick Pharmacy. Lawson telephoned Possinger a few times to verify the prescriptions. He also telephoned the Federal Task Force in Philadelphia to see if Possinger was a legitimate physician. Lawson was informed that Dr. Possinger had a poor reputation and that Lawson should be guided by his conscience in deciding whether or not to fill the prescriptions.

The Acting Administrator finds that Smith would drop off the prescriptions of Lawson to fill. Since Fenwick Pharmacy did not stock sufficient quantities of these controlled substances to fill the prescriptions immediately, Lawson would order Tuinal and Preludin from wholesalers and fill the prescriptions when the drugs arrived. During this time the Drug Enforcement Administration began an investigation of Fenwick Pharmacy due to the large quantities of controlled substances the pharmacy was purchasing. Lawson indicated to DEA Diversion Investigators that all of Possinger's patients were coming Ocean City, several hours from Philadelphia, to get their Preludin. He did not mention that Possinger was running a "diet clinic" in Philadelphia. Nor did he mention Ronald Smith. He also told DEA Investigators that he verified each new patient with Possinger, when in fact Lawson only telephoned Philadelphia four times during this time period, and one of those telephone calls following his conversation with DEA investigators. After receiving two grand jury subpoenas for Dr. Possinger's prescriptions, Lawson stopped filling them at Fenwick Pharmacy.

The Acting Administrator finds that in late 1977, Smith began to bring prescriptions for Dilaudid, a Schedule II narcotic, to the Lawson & Sons Pharmacy in Hyattsville, Maryland, a suburb of Washington, D.C. These prescriptions were written by Marshall D. Nickerson, Jr., M.D., a Washington, D.C. physician. The Acting Administrator recently denied Dr. Nickerson's application for a DEA

Certificate of Registration; see 48 FR 3893 (January 27, 1983). The Administrator of DEA also revoked a DEA Certificate of Registration issued earlier to Dr. Nickerson, based on his controlled substance related felony convictions in the District of Columbia. See 45 FR 72310 (October 31, 1980). The Acting Administrator finds that while Thomas Lane filled the vast majority of the prescriptions written by Dr. Nickerson at Lawson's Pharmacy, Alfred Lawson also filled some of them. The same procedure applied as with the Tuinal and Preludin prescriptions in Ocean City. Smith would drop off the prescriptions, the Dilaudid would be ordered from the wholesaler, and Smith would return to pick up the controlled substances when they arrived.

The Acting Administrator finds, as did the jury and the Court of Appeals, that on one occasion Lawson was in the Hyattsville store when Smith came in and they greeted one another. Smith left without presenting any prescriptions or picking up any controlled substances and Lawson did not caution Lane about him. On another occasion, Lawson came into the Hyattsville store and handed Lane a bulging envelope like the ones he normally delivered prescriptions in, saying he had had a visit from "Ron". Lawson also filled a number of Nickerson's Dilaudid prescriptions in the Ocean City store. In the fall of 1978, Lane contacted the Metropolitan Police Department and learned that Dr. Nickerson was under investigation, yet he still filled the Nickerson Dilaudid prescriptions.

The Maryland State Police conducted an investigation of the Hyattsville store. On one occasion the police observed Ronald Smith enter the store and leave with a brown paper bag which the troopers later observed to contain pharmaceutical stock bottles of Dilaudid. On another occasion troopers observed Smith enter the store and obtain a brown paper bag from Lane. The troopers arrested Smith and found 1,000 Dilaudid tablets in four stock bottles in the bag. Lane was arrested later that evening. Eventually, the state charges were dropped in deference to the Federal prosecution.

At trial, a professor of pharmacy testified as an expert for the Government. He concluded that each of the Dilaudid prescriptions written by Dr. Nickerson and each of the Tuinal and Preludin prescriptions written by Dr. Possinger were bogus. Following trial, Lawson was convicted of one count of conspiracy, seven counts of distributing Preludin and Tuinal out of Fenwick Pharmacy and eleven counts of distributing Dilaudid out of Lawson & Sons Pharmacy. Shortly after the jury's verdict, Thomas Lane, who was also convicted, committed suicide.

The Acting Administrator has considered Respondent's submission in this matter. Respondents admit that Thomas Lane was obviously engaged in knowing criminal activity; they contend here, as they have throughout, that Lawson exercised proper pharmacy practice but that his judgment eventually proved wrong. The submission includes an affidavit from Helen Lawson, the wife of Alfred Lawson, who is now the full owner of Fenwick Pharmacy and fifty percent owner of Lawson & Sons Pharmacy. She states that she is an active and knowledgeable officer of each of the corporations and has come to understand the operation of the pharmacies. She states that she has great trust in the two pharmacists she has hired to run these pharmacies and that her husband has withdrawn from involvement in the pharmacies and that only in the Hyattsville store is he "aware of the amount of narcotics orders and nature of prescriptions being filled." She states that he has also worked part time in the Ocean City store. An affidavit from Bennett A. Friedman, the managing pharmacist at the Hyattsville store, also states that before he was incarcerated Mr. Lawson "check[ed] through our class II files." The affidavit of Robert J. Roissier, managing pharmacist at Fenwick Pharmacy, states that he understands that Mrs. Lawson will discourage Mr. Lawson from entering the store when he returns to Ocean City.

Despite the affidavits of Mr. Friedman and Mr. Roissier, the Acting Administrator cannot conclude that the public interest would be served by the continued registration of these pharmacies. The Acting Administrator is disturbed that Mr. Lawson was permitted access to the Schedule II files at the Hyattsville store. Similarly, the Acting Administrator is disturbed to find that Alfred Lawson executed seven DEA official order forms for Schedule II substances at the Ocean City location from May 22, 1982 to July 25, 1982, including one order form with no date. According to his affidavit, Mr. Roissier is the only person at Fenwick Pharmacy authorized to order narcotic drugs and he and Mrs. Lawson have decided to stock only a very minimal supply of Schedule II drugs. The Acting Administrator questions how long that policy would continue when Mr. Lawson returns from incarceration. While Mrs. Lawson has always had some administrative duties in the store, she is not a trained pharmacist and relies on the advice of the managing pharmacists at both stores. In light of Mr. Lawson's past activities, the Acting Administrator cannot conclude that he will not attempt to exert some form of control over one or both of the pharmacies.

DEA has consistently maintained that the registration of a corporate registrant may be revoked upon a finding that a natural person who was an owner, officer or key employee, who had some responsibility for the operation of the registrant's business, has been convicted of a felony offense relating to controlled substances. See *Arenstein v. California State Board of Pharmacy*, 265 Cal. App. 179, 71 Cal. Rptr. 357 (1968). DEA has consistently followed this principle, see: *Leonard S. Cohen t/a Senate Drug Store*, Dk. 72-5, 38 FR 9522 (1973); *River Forest Pharmacy*, Dk. 73-6, 38 FR 27417 (1973); *Afro-American Pharmacy, Inc.*, Dk. 73-10, 38 FR 27534 (1973); *Norman Bridge Drug Company, Inc.*, Dk. 74-22, 41 FR 3108 (1976); *Lynnfield Drug, Inc.*, Dk. 76-6, 42 FR 8435 (1977); *A. G. Pharmacy, Inc., d/b/a Berson Pharmacy*, Dk. 79-12, 45 FR 6868 (1980); *S&S Pharmacy, Inc.*, [no docket number], 46 FR 13052 (1981); *Big-T Pharmacy, Inc.*, Dk. 80-34, 47 FR 51830 (1980). Respondents admit in their submission that there was obvious intentional abuse of the DEA registration at Lawson & Sons Pharmacy. The Acting Administrator concludes that there was similar intentional abuse of the DEA registration at Fenwick Pharmacy.

Upon consideration of the record in this matter, including Respondent's submission, it is the decision of the Acting Administrator to revoke the Certificates of Registration issued to Lawson & Sons Pharmacy and Fenwick Pharmacy and deny any pending applications for renewal of those registrations. Accordingly, under the authority vested in the Attorney General by Section 304 of the Controlled Substances Act, as redelegated to the Acting Administrator of the Drug Enforcement Administration, the Acting Administrator hereby orders that DEA Certificate of Registration AL1440798, previously issued to Lawson & Sons Pharmacy, and Certificates of Registration AF5542712 and AF1440774 issued to Fenwick Pharmacy, are hereby revoked effective May 16, 1983.

Dated April 6, 1983.

John C. Lawn,

Acting Administrator.

[FR Doc 83-9688 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration; Mallinckrodt, Inc.

By Notice dated October 5, 1982, and published in the **Federal Register** on October 14, 1982, (47 FR 45999), Mallinckrodt, Inc., Department CB, Mallinckrodt and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II.
Diprenorphine (9058)	II.
Etorphine Hydrochloride (9059)	II.
Dihydrocodeine (9120)	II.
Oxycodone (9143)	II.
Diphenoxylate (9170)	II.
Hydrocodone (9193)	II.
Methadone (9250)	II.
Methadone-Intermediate (9254)	II.
Morphine (9300)	II.
Thebaine (9333)	II.
Opium Extracts (9610)	II.
Opium Fluid Extracts (9620)	II.
Tincture of Opium (9630)	II.
Powdered Opium (9639)	II.
Granulated Opium (9640)	II.
Oxymorphone (9652)	II.
Noroxymorphone (9668)	II.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 1, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-9681 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

Revocation of Registrations; Matacumbe Pharmacy; Bell Wholesale Drugs, Inc.

On February 7, 1983, the Acting Administrator of the Drug Enforcement Administration [DEA] directed to Bell Wholesale Drugs, Inc., 683 West 27th Street, Hialeah, Florida 33010, and Matacumbe Pharmacy, 2960 N.W. 17th Avenue, Miami, Florida 33125 [Respondents], Orders to Show Cause proposing to revoke the Respondents' DEA registrations. Matacumbe Pharmacy is registered under the Controlled Substances Act as a retail pharmacy and is the holder of DEA Certificate of Registration AM1478266. Bell Wholesale Drugs, Inc., is registered as a distributor of controlled substances and is the holder of DEA Certificate of Registration PB0197889.

Simultaneously, citing his preliminary finding of imminent danger to the public health and safety, the Acting Administrator ordered the immediate suspension of the Respondents' registrations pending a final determination in these proceedings. The Orders to Show Cause were served upon the Respondents on February 9, 1983. On that date, the immediate suspensions were also executed. Pursuant to Title 21, United States Code, 824(f), all controlled substances possessed by the Respondents pursuant to their suspended registrations were placed under seal and were removed for safekeeping.

The Respondents were given thirty days to request a hearing or to otherwise respond to the issues raised by the Orders to Show Cause. More than thirty days have passed since those orders were served and the Drug Enforcement Administration has received no communication whatever from either of the two Respondents. Accordingly, pursuant to the provisions of Title 21, Code of Federal Regulations §§ 1301.54(d) and 1301.54(e), the Respondents have waived their opportunity for a hearing in this matter and the Acting Administrator hereby issues his Final Order, based upon the following findings of fact and conclusions of law.

The Acting Administrator finds that on January 7, 1983, in the United States District Court for the Central District of Illinois, Carlos Gonzales, President and owner of the two Respondents, was convicted of conspiracy to import marihuana in violation of Title 21, United States Code, 846. This is a felony offense relating to a controlled substance within the meaning and intent of Title 21, United States Code, 824(a)(2). Accordingly, the Acting Administrator concludes that there is a statutory basis for the revocation of the Respondents' DEA registrations.

Additionally, the Acting Administrator finds that during the period from January 1, 1981 through January 27, 1983, Matacumbe Pharmacy purchased at least 902,000 dosage units of Empirim Compound No. 4 and at least 899,000 dosage units of Doriden tablets, both Schedule III controlled substances, and could not account for the distribution of such as required by law and DEA regulations. During the period from January 1, 1982 through January 27, 1983, Bell Wholesale Drugs, Inc., purchased approximately 423,000 dosage units of Empirim Compound No. 4 and approximately 424,000 dosage units of Doriden, and could not account for the distribution of such as required by law and DEA regulations. These drugs are heavily abused in combination and are in great demand in the illicit traffic. The Doriden tablets contain glutethimide, a hypnotic, and the Empirim Compound tablets contain codeine, a narcotic analgesic. The combination is known variously by abusers as "loads," "hits" or "Fours and Dors." Fatalities among abusers of this combination are not uncommon. Since the Respondents have apparently chosen to waive their opportunity for a hearing in which they might have been able to provide some explanation for these incredibly large shortages, the Acting Administrator must conclude that the Respondents' registrations were used to acquire large quantities of controlled substances which were subsequently diverted into the illicit traffic.

Having concluded that there is a statutory basis for the revocation of the Respondents' DEA registrations and having further found that the Respondents' registrations were used to facilitate diversion on a large scale, the Acting Administrator concludes that these registrations must be revoked. Accordingly, pursuant to the authority vested in the Attorney General by Title 21, United States Code, 824, and redelegated to the Acting Administrator of the Drug Enforcement Administration, the Acting Administrator hereby orders that DEA Certificates of Registration AM1478266 and PB0197889 be, and they hereby are, revoked.

In light of the immense quantities and the extremely dangerous nature of the drugs diverted through the subject registrants and taking into consideration all of the facts and circumstances herein, the revocation of these registrations shall be effective immediately.

Dated: April 14, 1983.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 83-9689 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-6]

Michael M. Motamed, M.D.; Rubidoux, California; Hearing

Notice is hereby given that on January 28, 1983, the Drug Enforcement Administration, Department of Justice, issued to Michael M. Motamed, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AM1607437.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Thursday, April 28, 1983 in the U.S. Customs Courtroom, 8th Floor, 300 N. Los Angeles Street, Los Angeles, California.

Dated: April 6, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-9882 Filed 4-13-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Reports; Safety Recommendations and Responses; Availability

Recommendations to:

Federal Aviation Administration: Mar. 31: A-83-12: Review the design criteria for the aluminum hydraulic lines in Cessna Model 404 airplanes to determine that the fatigue limit of the tubing, the prescribed installation bend radii, and the cyclic loads do not result in an unacceptable margin of safety as to fatigue and failure of the hydraulic lines; if the margin of safety is not adequate, require that the hydraulic lines: (1) Be inspected at appropriate intervals by a method that will reveal cracks in the lines, or (2) be replaced at a specified service life or time that will forestall fatigue failure of the lines. *Apr. 5: A-83-31:* Issue an Airworthiness Directive requiring an immediate inspection of the tailpipe muffler/diffuser assemblies which are incorporated on certain models of Piper Seneca PA-34-200 airplanes for evidence of deterioration. If warping, buckling, burning, or cracks exist, the affected assembly should be replaced. *A-83-32:* Conduct an engineering evaluation of the Piper Seneca Model PA-34-200 tailpipe muffler/diffuser assembly to determine whether accelerated inspection intervals, muffler life limits, or related design improvements are warranted.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include the recommendation number(s) in your request. Copies of recent recommendation letters are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses from:

Aviation.—*Federal Aviation Administration: Mar. 21: A-82-150:* The Reeve Aleutian Airways, Inc., YS-11 checklist and operations manual have been changed to include added emphasis on the in-flight use of fuel heat during approach and landings. Changes to the operations manual now provide the flight crew with sufficent information to decide when the fuel heat should be used in flight. *A-82-151:* Requested on Jan. 17, 1983, that the Japan Aviation Bureau confirm that the markings on the catch and exit handles of the Nihon YS-11 were in accordance with applicable airworthiness regulations. *Mar. 21: A-81-36:* Airworthiness Directive (AD) 80-22-15 has been superseded by AD 81-25-05 regarding lift strut forks on certain Piper aircraft. Believes that an adequate safety level can be achieved with AD 82-25-05 without requiring the replacement of all forks in service. *A-81-37:* Piper is now identifying the forks it manufactures with the Piper logo stamped at the fork end of the part to indicate the new parts. These forks also carry a new part number. *A-81-38,* which recommended specifying that required inspections of lift strut forks on certain Piper aircraft be performed only by manufacturers authorized to fabricate these forks or by other designated central inspection facilities having the requisite facilities and expertise: Believes that the inspections required by AD 81-25-05 are not complex and are not beyond the capability of the authorized inspection agencies. *Mar. 21: CY-70-42, Part 4:* Any attempt to initiate regulatory action concerning aircraft crashworthiness without the proper substantive technical data base would be unsuccessful. Completion of research activities concerning crash pulse definition and computer-generated modeling techniques are imminent. These programs can provide necessary and sufficient data to formulate design standards and initiate rulemaking action as appropriate. *A-77-70,* which recommended amending 14 CFR 23.785 to require installation of approved shoulder harnesses at all seat locations as outlined in NPRM 73-1: Data from an FAA benefit-cost analysis regarding general aviation shoulder harnesses will be evaluated in concert with applicable forthcoming General Aviation Manufacturers Association recommendations resulting from their shoulder harness installation program, the Transportation Systems Center "Small Airplane Stall Speed Study" committee recommendations, and the safety recommendations under discussion. *A-80-125:* A similar scheme to that proposed for retrofitting certain aircraft with shoulder harnesses has been addressed in the FAA's benefit-cost analysis. This recommendation will be evaluated in concert with recommendation A-77-70. *A-80-126,* which recommended that the FAA develop, in coordination with airframe manufacturers, detailed, approved installation instructions for installing shoulder harnesses at each seat location in current models and types of general aviation aircraft in which shoulder harness attachment points were not provided as standard equipment: These retrofit schemes are also addressed in the benefit-cost analysis in order to quantify their merits. Design functions are the responsibility of the aircraft type-certificate holder or owner.

A-80-127: A similar scheme to that proposed for retrofitting certain aircraft with shoulder harnesses has been addressed in the FAA's benefit-cost analysis. This recommendation will be evaluated in concert with recommendation A-77-70. *A-80-128,* which recommended the extension of all newly established occupant protection provisions of 14 CFR Part 23 to all newly manufacturered general aviation aircraft: Does not believe that in the absence of a clearly defined unsafe condition that arbitrary retroactive application of newly defined occupant protection or other regulatory provisions is appropriate or in compliance with Executive Order 12291. Retrofit schemes are typically very costly, with little identifiable benefit. *A-80-129,* which recommended revising 14 CFR 23.785(j) to incorporate performance standards and test criteria to insure that an acceptable level of occupant safety is achieved through cabin "delethalization": The general scope of the recommendation is too broad. Envisions that advisory material such as that suggested normally would be developed in the FAA's general aviation on crash dynamics program to supplement any defined regulatory actions. *A-80-130,* which recommended revising current standards for seat and restraint systems to incorporate needed crashworthiness improvements identified in FAA Research Project reports: Concurs with the intent of recommendation, but, without specific information concerning the needed crashworthiness improvements and desired regulatory changes, can take no definitive actions. *A-80-131,* which recommended establishing standards for the dynamic testing of occupant protection devices required in general aviation aircraft: It appears as if the Safety Board is recommending dynamic testing of all the immediate components in the cockpit/cabin environment without sufficient rationale and/or justification to support such a position. Compliance with such a recommendation would be an enormous undertaking well beyond the scope of any envisoned engineering and development programs and contrary to the philosophies of FAA's recent Regulation by Objectives initiatives.

Highway—*Governor of Texas: Mar. 25: H-82-18:* Would support a bill raising the minimum legal drinking age in Texas.

Governor of Minnesota: Mar. 11: H-82-18: Acknowledging receipt of information concerning raising the minimum legal drinking age in Minnesota.

Governor of New York: Mar. 21: H-82-18: New York State recently raised the purchase age for alcoholic beverages to 19. Until the impact of this new law on highway safety is determined, the governor will not be in a position to recommend any further increase in the age limit.

American Association of State Colleges and Universities: Mar. 14: H-83-5 and -6: Printed an article on the accident involving University of Virginia students in Lynchburg, Virginia, on Oct. 6, 1982, and the recommendations mady by the Board. Agrees that the recommendations concerning student transportation should be put into force on every campus.

Railroad—*Association of American Railroads: Mar. 11: R-83-28 and -29:* Senior officers of the carriers and the employee unions have met to discuss alcohol abuse on the railroads. While it was not possible to reach agreement on the use of specific testing devices, a certification procedure modeled on the Southern Pacific program has been submitted to the Federal Railroad Administration for consideration. *Mar. 21: R-83-27:* Has informed members of the circumstances of the accident in Emerson, Iowa, on Jun. 15, 1982, and informed them of the Board's recommendation that railroads adopt a system of professionally gathered and evaluated meteorological information to better assure timely knowledge of climatic conditions that may affect the safe operation of train movements. *Mar. 29: R-83-7:* Informed its members of the circumstances of the accident in Thermal, California, on Jan. 7, 1982. Will be able to set the frequency of rail inspection more appropriately after completion of a cooperative study of performance standards, which include rail fatigue defects, being made by the Federal Railroad Administration, the American Railway Engineering Association, the AAR Engineering Division, and the AAR Research and Test Department. *R-83-8:* Will request companies to evaluate their programs concerning the documentation of hazardous materials carried on freight trains and emergency response information for those commodities, and to strengthen their programs as necessary. *R-83-9:* The AAR's Bureau of Explosives, Intermodal Committee, Station and Terminal Steering Committee, and Research and Test Department are working on assignments related to the problem of accurate information on waybills for trafler-on-flat-car and container-on-flat-car shipments containing hazardous materials.

Burlington Northern Railroads: Mar. 17: R-83-19: Expanded method of collecting meteorological data to include utilizing the services of the National Oceanic and Atmospheric Administration. Has started a program of strategically locating weather monitors. *R-83-20,* which recommended a review of the training provided to employees to enable them to better assess climatic threats to safe train movements: All BN rules provide adequate action or procedures to be followed during severe weather conditions. Appropriate rules have been and will continue to be reviewed with each craft to ensure a greater level of awareness and compliance.

Marine—*U.S. Coast Guard: Mar. 14: M-82-20,* which recommended the institution of Vessel Traffic Service (VTS) flow control of ferry and large vessel traffic crossing the Seattle Harbor, pier 52 ferry lanes during periods of restricted visibility: Does not concur with recommendation. The Puget Sound VTS provides information on vessel movements within Seattle Harbor at all times. With this information available, in addition to the master's own observations, vessels would normally be able to arrange passing agreements with no further aid from the VTS. *M-82-21:* Will work with the Washington State Ferries and the National Oceanic and Atmospheric Administration to delineate the standard ferry routes and have them published on Puget Sound charts. For temporary routes, a Notice to Mariners will be published to inform the users of Puget Sound of any changes to these routes. *M-83-22:* Initiated a district by district evaluation of the manner in which the Navigation Safety Regulations have been applied to ferries. *M-82-23,* which recommended revising the Navigation Safety Regulations, 33 CFR Part 164, relative to gyrocompasses, vessel maneuvering characteristic data, chart use, and radar contact plotting, so that ferry passengers are afforded an equivalent amount of safety regardless of the ferries' gross tonnage: Does not concur with recommendation. The application of the regulations to the Washington State Ferries is appropriate to the type and limited scope of the operation. Revising the navigation equipment requirements, which are based on internationally developed standards which have been supported by the United States, is not justified based on two isolated casualties.

Governor of the Virgin Islands: Mar. 13: M-80-115: Virgin Islands Fire Service has adopted a contingency plan for all types of emergency operations, including fires on ships that are docked. Hopefully, the plan will be expanded to include vessels at anchor in the harbor when a fire/rescue boat is acquired. *M-80-116:* Two officers of "Chief" rank have attended the Marine Firefighting and Emergency Training Course of Texas A&M University, and other supervisors will be attending the same course.

American Bureau of Shipping: Mar. 16: M-83-36: Some of the comments raised in the recommendation concerning revising stability criteria contained in the Rules for Building and Classing Mobile Offshore Drilling Units are presently under review by ABS's Special Committee—Mobile Offshore Drilling Units.

Ocean Drilling & Exploration Company: Mar. 10: M-83-24 through -33: Acknowledging receipt of recommendations resulting from the Board's investigation of the capsizing and sinking of the U.S. mobile offshore drilling unit OCEAN RANGER in the Atlantic Ocean on Feb. 15, 1982.

Federal Emergency Management Agency: Mar. 22: M-80-117: Provided training through its National Fire Academy to the Chief of the Virgin Islands Fire Department in emergency planning. Is considering the short-term assignment of one of its training staff experienced in harbor fire prevention and control to the Virgin Islands. Has received no communication from the U.S. Coast Guard concerning any joint effort in the revision of the Virgin Islands contingency plan.

Pipeline—*Wisconsin Natural Gas: Mar. 4: P-76-85:* Has revised Construction Standards to require that underground facilities be located and marked prior to construction.

National LP-Gas Association: Mar. 24: P-82-45 and -46: Advised its members of the accident that occurred in Dublin, Georgia, on Sept. 7, 1982, and reemphasized the importance of using proper procedures for cutting into gas mains under pressure.

Intermodal—*National Association of Regulatory Utility Commissioners: Mar. 16: I-82-5:* Surveyed its members to determine the status of current State policies regarding regulations concerning the storage of hazardous materials on or near railroad rights-of-way.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

April 7, 1983.

[FR Doc. 83-9645 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 75 and 42 to Facility Operating License Nos. DPR-51 and NPF-6, issued to Arkansas Power & Light Company [the licensee], which revised the Technical Specifications for operation of Arkansas Nuclear One, Units Nos. 1 and 2 (the facilities), located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments modify the Technical Specifications to clarify the operability status of equipment with the timely completion of the surveillance requirements for that equipment.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended [the Act], and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR

51.5(d)(4), and environmental impact statement or negative declaration and environmental impact apprasial need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated May 28, 1982, as modified January 14, 1983, (2) Amendments Nos. 75 and 42 to Facility Operating License Nos. DPR-51 and NPF-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of April 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-9912 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 84 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), which revised the Technical Specifications (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises Emergency Plan and Security Plan TS audit frequencies to coincide with the Code of Federal Regulations, and invokes a requirement for plant staff overtime procedures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 31, 1983, (2) Amendment No. 84 to License No. DPR-50, and (3) the Commission's letter to GPU Nuclear Corporation dated April 4, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 4th day of April 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-9914 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 64 and 58 to Facility Operating License Nos. DPR-42 and DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments revise the Administrative Control section of the Technical Specifications (TS) 6.1 concerned with procedural requirements for limited overtime that reflects the NCR guidance in Generic Letter 82-12 (June 5, 1982) and the revised NUREG-0737 Item I.A.1.3.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) The application for amendments dated January 14, 1983, (2) Amendment Nos. 64 and 58 to License Nos. DPR-42 and DPR-60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Divison of Licensing.

Dated at Bethesda, Md., this 6th day of April 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-9915 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR-40 issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska.

The amendment is effective as of its date of issuance.The amendment permanently revises the minimum

temperature requirement for secondary system pressure testing.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 3, 1983, (2) Amendment No. 71 to License No. DPR-40 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 1st day of April 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-9916 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389]

St. Lucie Plant, Unit 2; Florida Power & Light Co., et al.; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF-16, (License) to Forida Power & Light Company, Orlando Utilities Commission of the City of Orlando and Florida Municipal Power Agency (licensees). This License authorizes operation of the St. Lucie Plant, Unit 2 (facility) at reactor core power levels not in excess of 2560 megawatts thermal in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan. However, the License contains a condition currently limiting operation to five percent of full power (128 megawatts thermal). Authorization to operate at greater than five percent power will require specific Commission approval.

St. Lucie Plant, Unit 2 is a pressurized water reactor located at the licensees' site on Hutchinson Island in St. Lucie County, Florida approximately 34 miles north-northeast of the city of West Palm Beach. The License is effective as of the date of issuance and shall expire at midnight on April 6, 2023.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on March 9, 1981 (46 FR 15831).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF-16, with Technical Specifications (NUREG-0949) and Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards dated November 17, 1981; (3) the Commission's Safety Evaluation Report dated October 1981; Supplement No. 1 dated December 1981; Supplement No. 2 dated September 1982; Supplement No. 3 dated April 1983; (4) the Final Safety Analysis Report and amendments thereto; (5) the Environmental Report and supplements thereto; (6) the Draft Environmental Statement dated October 1981; (7) the Final Environmental Statement dated April 1982; and (8) the assessment of the effect of license duration on matters discussed in the Final Environmental Statement for St. Lucie Plant, Unit 2.

These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A copy of Facility Operating License No. NPF-16 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplements 1 through 3 (NUREG-0843) and the Final Environmental Statement (NUREG-0842) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit holders can call 301-492-9530.

Dated at Bethesda, Md., the 6th day of April 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-9913 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-259]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Unit 1); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Tennessee Valley Authority (the licensee) is the holder of Facility Operating License No. DPR-33 which authorizes the operation of the Browns Ferry Nuclear Plant, Unit 1 (the facility) at steady-state power levels not in excess of 3293 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Limestone County, Alabama.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set

forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82-05 by letter dated April 14, 1982. By letters dated May 13, 1982 and February 1, 1983, we requested additional information on TVA's responses. TVA submitted revised responses to Generic Letter 82-05 by letters dated June 17, June 28 and July 15, 1982 and January 14 and February 28, 1983. The licensee responded to Generic Letter 82-10 by letter dated June 24, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed, took technical exception to one item, and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to 16 and 10 items, respectively, for BWRs with jet pumps. Of the 10 items listed in Generic Letter 82-10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (1 item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Thirteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The licensee is taking technical exception to one item, II.K.3.22, that will be addressed in a separate action. On item II.B.3, TVA has completed the post-accident sampling facility. However, the tie-in of the sample lines inside the reactor vessel and the waste/flush lines to the torus are scheduled for future refueling outages. Since the staff is still evaluating TVA's design and program, this item will also be addressed in a separate action. These two items—II.B.3 and II.K.3.22—are therefore not included in this Order.

The staff's evaluation of the licensee's delays for the remaining five items is provided herein:

II.F.1 Post-Accident Monitoring (5 items)

Three items, II.F.1.3, II.F.1.4 and II.F.1.5 are scheduled to be installed during the next refueling outage on each unit. For Unit 1, the next refueling is scheduled to start March 18, 1983 and be completed by July 18, 1983. The delay in installation has been the result of late delivery schedules in materials and vendor-supplied equipment. Two items, II.F.1.1 and II.F.1.2, will be completed (including readout in the control room) prior to startup in Cycle 7 (about February 1985). The delay is primarily the result of the long time spent by TVA in designing a customized monitoring system. This approach was abandoned in June 1982 and purchase of commercially available equipment initiated. Based on scheduled delivery of materials and components, installation will begin in June 1984 and be completed by December 31, 1984. The effluent monitors currently installed at Browns Ferry perform the functions required by II.F.1.1 and II.F.1.2, but with a smaller range than required by NUREG-0737. Also, TVA has the capability for monitoring through use of grab samples.

We find, based on the above evaluation, that: (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, *it is hereby ordered effective immediately that the licensee shall:*

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A copy shall also be sent to the Executive Legal Director at the same address. *A request for hearing shall not stay the immediate effectiveness of this order.*

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Md., this 25th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1,1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.
II.B.3	Post-Accident [1] Sampling	do	Install upgraded post-accident sampling capability	To be addressed inseparate action.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5—lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7—isolate purge & vent valves on radiation signal	Do
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors with control room instrumentation.	Prior to start-up in Cycle 7 (2/85).
		do	(2) Provide capability for effluent monitoring of iodine with control room instrumentation.	Do.
		do	(3) Install incontainment radiation-levels monitors	Prior to start-up in Cycle 6 (7/83).
II.F.1		Jan. 1, 1982	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication oh hydrogen concentration in containment.	Complete.
II.K.3.15	Isolation of HPCI & RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Do.
II.K.3.22	RCIC Suction [1]	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Technical Exception.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Complete
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

[1] Not Part of Confirmatory Order.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule (or status)
1.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise adminstrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
1.A.1.3.2	Minimum Shift [1] Crew	To be superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency [1] Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 & 31	SBLOCA Analysis [1]	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels [1] for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency [1] Support Facilities.	do	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.A.2.2	Meteorological [1] Data	do	do	Do.
III.D.3.4	Control Room Habitability	To be Determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Not Part of Confirmatory Order.

[FR Doc. 83-9917 Filed 4-13-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-260]

Tennessee Valley Authority, (Browns Ferry Nuclear Plant, Unit 2); Order Confirming Licensee Commitments On Post-TMI Related Issues

I

The Tennessee Valley Authority (the licensee) is the holder of facility Operating License No. DPR-52 which authorizes the operation of the Browns Ferry Nuclear Plant, Unit 2 (the facility) at steady-state power levels not in excess of 3293 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Limestone County, Alabama.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby

incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82-05 by letter dated April 14, 1982. By letters dated May 13, 1982 and February 1, 1983 we requested additional information on TVA's responses. TVA submitted revised responses to Generic Letter 82-05 by letters dated June 17, June 28 and July 15, 1982 and January 14 and February 28, 1983. The licensee responded to Generic Letter 82-10 by letter dated June 24, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed, took technical exception to one item, and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to 16 and 10 items, respectively, for BWRs with jet pumps. Of the 10 items listed in Generic Letter 82-10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Thirteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The licensee is taking technical exception to one item, II.K.3.22, that will be addressed in a separate action.

On item II.B.3, TVA has completed the post-accident sampling facility. However, the tie-in of the sample lines inside the reactor vessel and the waste/flush lines to the torus are scheduled for future refueling outages. Since the staff is still evaluating TVA's design and program, this item will also be addressed in a separate action. These two items—II.B.3 and II.K.3.22—are therefore not included in this Order.

The staff's evaluation of the licensee's delays for the remaining five items is provided herein:

II.F.1 Post-Accident Monitoring (5 items)

Three items, II.F.1.3, II.F.1.4 and II.F.1.5 are scheduled to be installed during the next refueling outage on each unit. For Unit 2, the next refueling is scheduled to start in April 1984 and be completed by September 1984. The delay in installation has been the result of late delivery schedules in materials and vendor-supplied equipment. For two items, II.F.1.1 and II.F.1.2, installation of the monitoring instrumentation and associated equipment will be completed by December 1984. This instrumentation will have local readout capability. Providing readout in the control room can only be accomplished during an outage. TVA will be providing control room readout for these two monitors during the Unit 2 outage scheduled to start in February 1986; the control room instrumentation will be installed prior to startup in Cycle 7 (about July 1986). The delay is primarily the result of the long time spent by TVA in designing a customized monitoring system. This approach was abandoned in June 1982 and purchase of commercially available equipment initiated. Based on scheduled delivery of materials and components, installation will begin in June 1984 and be completed by December 31, 1984. The effluent monitors currently installed at Browns Ferry perform the functions required by II.F.1.1 and II.F.1.2, but with a smaller range than required by NUREG-0737. Also, TVA has the capability for monitoring through use of grab samples.

We find, based on the above evaluation, that: (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, *it is hereby ordered effective immediately that the licensee shall:*

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Regulations, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A copy shall be sent to the Executive Legal Director at the same address. *A request for hearing shall not stay the immediate effectiveness of this order.*

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 25th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
II.B.3	Post-Accident Sampling [1]	do	Install upgraded post-accident sampling capability	To be addressed in separate action.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.4.2	Containment Isolation Dependability.	July 1, 1981	Part 5—lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7—isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors with local readout capability.	Dec. 31, 1984.
			Install control room instrumentation	Prior to start-up in Cycle 7 (July 1986).
		do	(2) Provide capability for effluent monitoring of iodine with local readout capability.	Dec. 31, 1984.
			Install control room instrumentation	Prior to start-up in Cycle 7 (July 1986).
		do	(3) Install incontainment radiation-level monitors	Prior to start-up in Cycle 6 (Sept. 1984).
		do	(4) Provide continuous indication of containment pressure.	Do.
		do	(5) Provide continuous indication of containment water level.	Do.
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Complete.
II.K.3.15	Isolation of HPCI and RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Do.
II.K.3.22	RCIC Suction [1]	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Technical exception.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Complete.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

[1] Not part of confirmatory order.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule (or status)
I.A.1.3.1	Limit Overtime	Oct. 1, 1982 per Gen. Ltr. 82-12 dtd June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC policy statement issued by Generic Ltr. No. 82-12, dtd June 15, 1982.	Complete.
I.A.1.3.2	Minimum Shift [1] Crew	To be superseded by proposed rule.	To be addressed in the final rule on licensed operator staffing at nuclear power units.	To be addressed when final rule is issued.
I.C.1	Revise Emergency [1] Procedures	Superseded by SECY 82-111	Reference SECY 82-111, requirements for emergency response capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Sept. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30	SBLOCA Analysis [1] and 31	1 yr. after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels [1] for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, requirements for emergency response capability.	To be determined.
III.A.1.2	Upgrade Emergency [1] Support Facilities.	Superseded by SECY 82-111	Reference SECY 82-111, requirements for emergency response capability.	Do.
III.A.2.2	Meteorological [1] Data	Superseded by SECY 82-111	Reference SECY 82-111, requirements for emergency response capability.	Do.
III.D.3.4	Control Room Habitability	To be determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Not part of confirmatory order.

[FR Doc. 83-9016 Filed 4-13-83; 8:45 am]
BILLING CODE 7590-01-M

Docket No. 50-296]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Unit 3); Order Confirming Licensee Commitments On Post-TMI Related Issues

I

The Tennessee Valley Authority (the Licensee) is the holder of Facility Operating License No. DPR-68 which authorizes the operation of the Browns Ferry Nuclear Plant, Unit 3 (the facility) at steady-state power levels not in excess of 3293 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Limestone County, Alabama.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82-05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently, on May 5, 1982, a letter (Generic Letter 82-10) was also sent to all licensees of operating power reactors for those items that were

scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff had proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

The licensee responded to Generic Letter 82-05 by letter dated April 14, 1982. By letters dated May 13, 1982 and February 1, 1983, we requested additional information on TVA's responses. TVA submitted revised responses to Generic Letter 82-05 by letters dated June 17, June 28 and July 15, 1982 and January 14 and February 28, 1983. The licensee responded to Generic Letter 82-10 by letter dated June 24, 1982. In these submittals, the licensee confirmed that some of the items identified in the Generic Letters had been completed, took technical exception to one item, and made firm commitments to complete the remainder. The attached Tables summarizing the licensee's schedular commitments or status were developed by the staff from the Generic Letters and the licensee-provided information.

Generic Letters 82-05 and 82-10 applied to 16 and 10 items, respectively, for BWRs with jet pumps. Of the 10 items listed in Generic Letter 82-10, six items are not included in this Order. Item I.A.1.3.2 is part of a separate rulemaking; Items I.C.1, III.A.1.2 (2 items), and III.A.2.2 will be handled separately following Commission actions that would proceed as a result of its consideration of SECY 82-111, as amended; and Item II.K.3.30 and II.K.3.31 (one item) is not required until one year after staff approval of the generic model and staff review of these models has not been completed.

Thirteen of the 20 items addressed in this Order are considered by the licensee to be completed or to require no modifications. The licensee is taking technical exception to one item, II.K.3.22, that will be addressed in a separate action.

On item II.B.3, TVA has completed the post-accident sampling facility. However, the tie-in of the sample lines inside the reactor vessel and the waste/flush lines to the torus are scheduled for future refueling outages. Since the staff is still evaluating TVA's design and program, this item will also be addressed in a separate action. These two items—II.B.3 and II.K.3.22—are therefore not included in this Order.

The staff's evaluation of the licensee's delays for the remaining five items is provided herein:

II.F.1 Post-Accident Monitoring (5 items)

Three items, II.F.1.3 II.F.1.4 II.F.1.5 are scheduled to be installed during the next refueling outage on each unit. For Unit 3, the next refueling is scheduled to start August 1, 1983 and be completed by November 28, 1983. The delay in installation has been the result of late delivery schedules in materials and vendor-supplied equipment. For two items, II.F.1.1 and II.F.1.2, installation of the monitoring instrumentation and associated equipment will be complete by December 1984. This instrumentation will have local readout capability. Providing readout in the control room can only be accomplished during an outage. TVA will be providing control room readout for these two monitors during the Unit 3 outage scheduled to Start in March 1985; the control room instrumentation will be installed prior to startup in Cycle 7 (about August 1985). The delay in primarily the result of the long time spent by TVA in designing a customized monitoring system. This approach was abandoned in June 1982 and purchase of commercially available equipment initiated. Based on scheduled delivery of materials and components, installation will begin in June 1984 and be completed by December 31, 1984. The effluent monitors currently installed at Browns Ferry perform the functions required by II.F.1.1 and II.F.1.2, but with a smaller range than required by NUREG-0737. Also, TVA has the capability for monitoring through use of grab samples.

We find, based on the above evaluation, that: (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG-0737 requirements noted; (2) there is good cause for the delays; and (3) as noted above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety and, therefore, the licensee's commitment should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, *it is hereby ordered effective immediately that the licensee shall:*

Implement and maintain the specific items described in the Attachments to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachments.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A copy shall also be sent to the Executive Legal Director at the same address. *A request for hearing shall not stay the immediate effectiveness of this order.*

If a hearing is requested by the licensee, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section IV of this Order. This Order is effective upon issuance.

Dated at Bethesda, Md., this 25th day of March 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
I.A.3.1	Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete.
II.B.2	Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	Do.

ATTACHMENT 1.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737ITEMS FROM GENERIC LETTER 82-05—Continued

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status)
II.B.3	Post-Accident [1] Sampling	do	Install upgraded post-accident sampling capability	To be addressed in separate action.
II.B.4	Training for Mitigating Core Damage.	Oct. 1, 1981	Complete training program	Complete.
II.E.4.2	Containment Isolation, Dependability.	July 1, 1981	Part 5—lower containment pressure setpoint to level compatible w/normal operation.	Do.
		do	Part 7—isolate purge and vent valves on radiation signal.	Do.
II.F.1	Accident Monitoring	Jan. 1, 1982	(1) Install noble gas effluent monitors with local readout capability.	Dec. 31, 1984.
			Install control room instrumentation	Prior to start-up in Cycle 7 (8/85).
		do	(2) Provide capability for effluent monitoring of iodine with local readout capability.	Dec. 31, 1984.
			Install control room instrumentation	Prior to start-up in Cycle 7 (8/85).
		do	(3) Install incontainment radiation-level monitors	Prior to start-up in Cycle 6 (12/83).
II.F1		do	(4) Provide continuous indication of containment pressure.	Prior to start-up in Cycle 6 (12/83).
		do	(5) Provide continuous indication of containment water level.	Prior to start-up in Cycle 6 (12/83).
		do	(6) Provide continuous indication of hydrogen concentration in containment.	Complete.
II.K.3.15	Isolation of HPCI & RCIC Modification.	July 1, 1981	Modify pipe break detection logic to prevent inadvertent isolation.	Do.
II.K.3.22	RCIC Suction [1]	Jan. 1, 1982	Modify design of RCIC suction to provide automatic transfer to torus.	Technical Exception.
II.K.3.24	Space Cooling for HPCI/RCIC	do	Confirm the adequacy of space cooling for HPCI/RCIC	Complete.
II.K.3.27	Common reference level	July 1, 1981	Provide common reference level for vessel level instrumentation.	Do.

[1] Not Part of Confirmatory Order.

ATTACHMENT 2.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-10

Item	Title	NUREG-0737	Requirement	Licensee's completion schedule (or status)
1.A.1.3.1	Limit Overtime	Oct. 1, 1982, per Gen. Ltr. 82-12 dated June 15, 1982.	Revise administrative procedures to limit overtime in accordance w/NRC Policy Statement issued by Generic Ltr. No. 82-12, dated June 15, 1982.	Complete.
1.A.1.3.2	Minimum Shift [1] Crew	To be, superseded by Proposed Rule.	To be addressed in the Final Rule on Licensed Operator Staffing at Nuclear Power Units.	To be addressed when Final Rule is issued.
I.C.1	Revise Emergency [1] Procedures	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
II.D.1.2	RV and SV Test Programs	July 1, 1982	Submit plant specific reports on relief and safety valve program.	Complete.
II.K.3.18	ADS Actuation	Aug. 30, 1982	Submit revised position on need for modifications	Do.
II.K.3.30 and 31	SBLOCA Analysis [1]	1 yr after staff approval of model.	Submit plant specific analyses	To be determined following staff approval of model.
III.A.1.2	Staffing Levels [1] for Emergency Situations.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	To be determined.
III.A.1.2	Upgrade Emergency [1] Support Facilities.	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.A.2.2	Meteorolligical [1] Data	Superseded by SECY 82-111	Reference SECY 82-111, Requirements for Emergency Response Capability.	Do.
III.D.3.4	Control Room Habitability	To be Determined by licensee	Modify facility as identified by licensee study	Complete.

[1] Not Part of Confirmatory Order.

[FR Doc. 83-9919 Filed 4-13-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 70 and 75 to Facility Operating License Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Co. (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments modify the requirements for periodic leakage rate testing of the containment air lock doors.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact

appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 21, 1982, (2) Amendment Nos. 70 and 75 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of April, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Brance #3, Division of Licensing.

[FR Doc. 83-9020 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has, pursuant to the Initial Decision of its Atomic Safety and Licensing Board (ASLB) dated February 4, 1983 (ASLBP No. 81-464-05 LA), issued Amendment Nos. 71 and 76 to Facility Operating License Nos. DPR-24, and DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications (TS) for operation of Point Beach Nuclear Plant Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments to the TS allow repair of degraded steam generator tubes by sleeving which would otherwise be required to be plugged and removed from service; establish limits for primary coolant iodine concentration and surveillance frequency; and establish a plugging limit for sleeved tubes of 40% nominal sleeve wall thickness.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on August 7, 1981 (46 FR 40359). A Petition to Intervene was filed on July 20, 1981 as amended by letter dated August 31, 1981 by Wisconsin's Environmental Decade. Hearings were held in Milwaukee, Wisconsin on November 17 and 18, 1982 with limited appearances held in the town of Two Rivers, Wisconsin on the evening of November 17, 1982. The Board issued its Initial Decision on February 4, 1983 and ruled that the NRC staff was authorized to issue the amendments.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For futher details with respect to this action, see (1) The application for amendments dated July 2, 1981 as amended March 9, 1983, (2) the Initial Decision of the Atomic Safety and Licensing Board dated February 4, 1983, (3) Amendment Nos. 71 and 76 to Facility Operating Licenses No. DPR-24 and DPR-27, and (4) the Commission's letter to the licensee dated April 4, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of April, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-9021 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, IC 127-5 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Criteria for Programmable Digital Computer Systems Software in Safety Systems of Nuclear Power Generating Stations" and is intended for Division 1, "Power Reactors." It is being developed to describe a method acceptable to the NRC staff for complying with the Commission's regulations for promoting high functional reliability for safety systems using programmable digital computer systems in nuclear power generating stations. This method is applicable to designing software, implementing software, and validating computer systems. This guide, with certain modifications, endorses ANSI/IEEE-ANS-7-4.3.2-1982, "Application Criteria for Programmable Digital Computer Systems in Safety Systems of Nuclear Power Generating Stations."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

As in the case of all draft regulatory guides, public comments are being solicited on both the guide itself and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. In addition, the NRC staff is seeking specific comments on alternative quality assurance program proposals presented in a letter that accompanies this draft guide. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555,

Attention: Docketing and Service Branch, by June 10, 1983.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone request cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 7th day of April 1983.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 83-9922 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Project WM-10]

Basalt Waste Isolation Project; Availability; Draft Site Characterization Analysis

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) has published a Draft Site Characterization Analysis (DSCA) of the U.S. Department of Energy's Site Characterization Report for the Basalt Waste Isolation Project, a potential high-level waste repository site on the Hanford Reservation in the State of Washington.

ADDRESSES: A single copy of the DSCA (NUREG-0960) is available free upon written request to the extent of supply from the GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-9530. The DSCA is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and the Local Public Document Room, Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Browning, Acting Director, Division of Waste Management, Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427-4200.

SUPPLEMENTARY INFORMATION: On November 12, 1982, the U.S. Department of Energy (DOE) submitted to the Nuclear Regulatory Commission (NRC) the DOE's Site Characterization Report (SCR) for the Basalt Waste Isolation Project (BWIP), designated as NRC Project WM-10. The BWIP SCR was submitted under the provisions of NRC's procedural rule, 10 CFR Part 60, Section 60.11.

While NRC staff was analyzing the BWIP SCR, the Nuclear Waste Policy Act (NWPA) of 1982, Pub. L. 97-425, was enacted into law. Under Section 113(b)(1) of that Act, DOE is required to submit to NRC, the host state, and any affected Indian tribe on whose reservation a candidate site is located for review and comment: (1) A general plan for site characterization activities to be conducted at such candidate site; (2) a description of the possible waste form or package; and (3) a conceptual repository design that takes into account likely site-specific requirements. The site characterization plan (SCP) required by the Act is similar, but not identical, to the SCR described in NRC's procedural rule, 10 CFR Part 60, § 60.11.

We understand that DOE intends to submit to NRC later this year an SCP and related documents specified in the Act for BWIP. We also understand that these documents will supersede the November 1982 BWIP SCR and will provide information not included in the November 1982 BWIP SCR.

Upon receipt later this year, NRC will review the BWIP SCP. The NRC is also looking at the impact of the NWPA on NRC's procedural rule. However, pending any change to NRC's procedural rule, we intend to provide NRC staff's draft analysis of the BWIP SCP for public review and comment prior to publication of a final analysis by NRC staff. Since the NRC staff has completed its review of the November 1982 BWIP SCR, we are publishing our draft analysis of that document now in order to provide DOE and all other interested parties with our views on the proposed site characterization program identified in the BWIP SCR.

Dated at Silver Spring, Maryland, this 31st day of March 1983.

For the Nuclear Regulatory Commission.

Robert E. Browning,

Acting Director, Division of Waste Management.

[FR Doc. 83-9923 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals; Renewal and Meeting Notice

The Nuclear Regulatory Commission announces the renewal of the Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals. It has been determined that renewal of this advisory committee is necessary and in the public interest in connection with the performance of duties relating to the domestic nuclear reactor licensing process. The purpose of the extension is to provide the Committee additional time for submission of advice and recommendations on specific rulemaking and administrative proposals generated by the NRC staff, including the NRC's Regulatory Reform Task Force, on methods to overhaul the licensing process. The charter which continues the Ad Hoc Committee through December 31, 1983 has been filed with the appropriate Congressional committee and the Library of Congress.

The next meeting of the Committee will take place at 9-30 a.m. on May 5, 1983 at the office of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M Street, NW., Washington, D.C. The meeting will be open for public observation. A transcript of the meeting will be made available for public inspection and copying at NRC's Public Document Room, 1717 H St., NW., Washington, D.C.

Further information on the Committee may be obtained from Mr. Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. (Telephone: 202/634-1465).

Dated at Washington, D.C., this 11th day of April 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-9924 Filed 4-13-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22904; (70-6854)]

American Electric Power Service Corp. and American Electric Power Company, Inc., Proposed Issuance of Fixed Rate Notes by Service Company; Guaranty by Holding Company

April 7, 1983.

American Electric Power Company, Inc. ("American"), a registered holding company, and its service company subsidiary, American Electric Power Service Corporation ("Services"), 180 East Broad Street, Columbus, Ohio 43215, has filed with this Commission an application-declaration and an amendment thereto pursuant to Sections 6(a), 7, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42(b)(2) and 50(a)(2) promulgated thereunder.

In accordance with a Commission order dated December 3, 1982 (HCAR No. 22756), Services has issued $15 million of unsecured notes to Chase Manhattan Bank, N.A. ("Chase"). Such notes either (1) mature May 1, 1985 and bear interest at the prime rate or (2) mature one, two, three or six months after issuance and bear interest at ½ of 1% above the applicable London Interbank Offering ("LIBO") Rate. Currently, all such borrowings by Services are evidenced by a LIBO Rate note dated March 10, 1983, that matures April 11, 1983, and bears interest to maturity at 9.5625%. On March 17, 1983, the announced Prime Rate at Chase was 10½%.

In order to refinance those borrowings, Services seeks authorization to issue up to $15 million principal amount of unsecured, fixed rate notes to banks from time to time through March 31, 1984. The notes will mature on a date not less than two nor more than ten years from date of issuance. No compensating balances or commitment fees will be required. Each such note will bear interest not greater than 200 basis points over the then applicable prime rate payable by Services to Chase under the existing loan agreement as of the date upon which a definite agreement is executed, but in no event greater than 14% per annum.

The proposed agreement will provide that in the event a note is paid prior to maturity, Services will be required to pay a fee to the lending bank calculated to reimburse the bank for interest lost, if any, as a result of the prepayment. All proceeds from these borrowings will be applied to retire the outstanding notes issued to Chase.

Services states that it believes that funds at a fixed rate at or near the applicable prime rate are currently available on loans having maturities of up to but not exceeding, two years. Rates quoted to Services on loans having longer maturities have generally been in the range of up to 200 basis points higher than the prime rate. Services believes that it will be of long-term benefit to the company and its customers to refund its outstanding variable rate notes, in whole or in part, with the proceeds of fixed rate notes having longer maturities, even though such long-term notes may bear a fixed rate of interest higher than current short-term rates at the time of such borrowings.

In order to induce banks to enter into an agreement for such borrowings, American proposes to unconditionally guarantee the principal and interest on such notes issued by Services.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 29, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-9863 Filed 4-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19664; (SR-NYSE-83-7)]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

April 8, 1983.

The New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, NY 10005, submitted on February 15, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, containing the changes made in March 1982 to the NYSE Specialist Performance Evaluation Questionnaire ("SPEQ"). The SPEQ is distributed quarterly to NYSE floor brokers who are asked to rate and provide comments on the performance of specialist units with whom they deal most frequently. A specialist unit's scores on the SPEQ are used by the Exchange both for the allocation of stocks to specialist units and in reallocation proceedings pursuant to NYSE Rule 103A.[1]

The principal changes to the SPEQ consist of: (1) Reducing the number of questions from 8 to 5, and eliminating a separate question pertaining to the specialist's negative obligation;[2] (2) rewording the questions; (3) giving equal weight to the 5 new questions;[3] (4) expanding the five-point rating scale to seven points;[4] and (5) adding an additional blank page to the questionnaire to allow brokers to provide additional comments on individual stocks and specialists.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19532, February 23, 1983) and by

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[1] For a more complete discussion of the Exchange's allocation procedures, see File No. SR-NYSE-83-10, noticed in Securities Exchange Act Release No. 19626, March 23, 1983; 48 FR 14103, April 1, 1983 (the "March Release"). For a more complete discussion of the Exchange's pilot reallocation procedures under Rule 103A, see Securities Exchange Act Release No. 19436, January 17, 1983; 48 FR 3063, January 24, 1983 (order approving extension of Rule 103 through June 30, 1983) (the "June Release").

[2] The present SPEQ includes five separate questions relating, respectively, to the specialist's dealer function, agency function, ability in maintaining the auction market, communication function and administrative function. The previous eight-question SPEQ included separate questions relating to continuity, depth, the specialist's affirmative and negative obligations, crowd leadership, performance of administrative duties, and staffing.

[3] The questions on the previous SPEQ were not equally weighted, so that the questions concerning the specialist unit's performance as dealer accounted for 51% of the unit's overall grade, and questions relating to administrative duties and staffing accounted for a total of 10% of the overall grade. In contrast, on the revised SPEQ only one question concerns the unit's performance as dealer and accounts for ony 20% of the specialist unit's overall grade, the same as each of the questions relating to administrative duties and staffing.

[4] Prior to March 1982, specialists were rated on a five-point scale, with Rule 103A establishing a 3.0 overall grade standard for minimum acceptable specialist performance. The changeover to a seven-point scale resulted in an effective lowering of the standard for minimum acceptable performance, and necessitated the change to a 4.50 standard approved by the Commission on March 1, 1983 (Securities Exchange Act Release No. 19558, March 1, 1983; 48 FR 9721, March 8, 1983).

publication in the **Federal Register** (48 FR 8879, March 2, 1983). No Comments were received with respect to the proposed rule change.

The Commission recognizes that the revised SPEQ, in adding more space for specific broker comment, attempts to place greater emphasis on performance by individual specialists in individual stocks, and the Commission encourages the Exchange to continue its efforts in this direction.[5] The Commission is concerned, however, that the elimination of a separate question pertaining to the specialist's negative obligaton, the reduction in the weight accorded the specialist's performance as dealer, and the concomitant increased emphasis given to a specialist's administrative tasks may reduce the utility of the SPEQ in evaluating the most critical elements of specialist performance. In that connection, the Commission must assure itself that the SPEQ is adequate to evaluate the specialist's performance of his essential functions in order for the Commission to approve Exchange procedures under Rule 103A on a permanent basis.

The NYSE has previously announced it has embarked upon a major study of its specialist system; this study will include, among other things, review of the Exchange's methods of specialist performance evaluation. Accordingly, while the Commission requests comments concerning the adequacy of the SPEQ as the basis for a permanent reallocation system it believes that it is appropriate for the Exchange to retain the revised SPEQ on an interim basis in the context of Exchange allocation and Rule 103A reallocation procedures pending completion of the portions of the Exchange's study dealing with these aspects of the NYSE specialist system.[6]

On this basis, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary

[FR Doc. 83-9935 Filed 4-13-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19658; File No. SR-PHLX 83-4]

Self-Regulatory Organizations; Proposed Rule Change By Philadelphia Stock Exchange, Inc.; Increase of Position and Exercise Limits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), Notice is hereby given that on April 4, 1983, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or "the Exchange") proposes to amend Exchange Rules 1000 and 1001 regarding position and exercise limits, as set forth below.

Italics indicates material proposed to be added. Brackets [ ] indicate material proposed to be deleted.

Rule 1001. Position Limits.

Except with the prior written approval of the Exchange in each instance, no member or member organization shall effect, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, an opening transaction (whether on the Exchange or on another Participating Exchange) in an option contract of any class of options dealt in on the Exchange if the member or member organization has reason to believe that, as a result of such transaction, the member or member organization or partner, officer, director or employee thereof or customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated with respect to an aggregate position of more than [2,000] *2,500 or 4,000* put or call options on the same side of the market relating to the same underlying security, *which limit is determined in accordance with commentary .05,* in the case of options on a stock, or more than 10,000 put or call option contracts on the same side of the market relating to the same underlying foreign currency, in the case of options on a foreign currency, or such other number of option contracts as may be fixed from time to time by the Exchange as the position limit for one or more classes or series.

* * * Commentary

.01 through .04—no change.

.05 The position limit shall be 4,000 contracts for options:

(i) on an underlying stock which had trading volume of at least 20,000,000 shares during the most recent six-month trading period; or

(ii) on an underlying stock which had trading volume of at least 15,000,000 shares during the most recent six-month trading period and has at least 60,000,000 shares currently outstanding.

The position limit shall be 2,500 contracts for all other options.

The Exchange will review the volume and outstanding share information of all underlying stocks every six months to determine which limit shall apply. The 4,000 limit will be effective on the date set by the Exchange, while any change from a 4,000 to 2,500 limit will take effect after the last expiration then trading, unless the requirement for a 4,000 limit is met at the time of an intervening six-month review.

Rule 1002. Exercise Limits.

Except with the prior approval of the Exchange in each instance, no member or member organization shall exercise, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange if as a result thereof such member or member organization, or partner, officer, director or employee thereof or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days aggregate long positions in that

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[5] The Commission has previously recommended to the Exchange that the SPEQ should be revised to provide for ratings and comments with respect to specialist performance in individual securities. See letter from Douglas Scarff, Director Division of Market Regulation, to John J. Phelan, Jr., President, NYSE, dated November 11, 1981. At present, the NYSE has procedures under Rule 103A by which a supplemental questionnaire may be issued with respect to a specialist unit in the context of a reallocation proceeding, following a specified period of substandard performance on the SPEQ. The Commission has requested the Exchange to use the regular, quarterly SPEQ, and not the supplemental questionnaire, to gather information necessary to identify specific stocks in which specialist performance is substandard in order to expedite proceedings under Rule 103A. While the NYSE has not agreed to elimination of supplemental questionnaire procudures under Rule 103A, the Commission believes that the addition to the SPEQ form of space to comment on individual specialist performance in individual stocks is a useful initiative.

[6] The Commission has previously indicated that it expects completion of these portions of the NYSE specialist study sometime prior to June 30, 1983, the current expiration date of NYSE's Rule 103A. See the January and March Releases.

particular class of options in excess of [2,000] *the number of* options covering the same options class (put or call) *as set forth as in the position limit in Rule 1000,* in the case of options on a stock, or in excess of 10,000 options covering the same option class (put or call), in the case of options on a foreign currency, without regard to the exchange on which the options were purchased.

* * * Commentary

.01 through .03—no change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to increase position and exercise limits for stock options in order to add to market depth and liquidity.

Position and exercise limit rules were originally adopted by option exchanges in order to minimize the manipultive potential which could result from the accumulation of large options positions. In 1978, the Special Study of the Options Market ("Study") recognized a number of significant problems which resulted from the position limit rule restrictions, including the inability of large portfolio managers to utilize options as a vehicle to properly balance a portfolio's risk and potential reward. The Study recommended that existing Exchange rules, which limited the size of options positions held by market participants, be reviewed and that their relaxation or elimination be considered. As a result of re-examination of position limits, as suggested in that Study, the Exchange proposed rule changes which were adopted in October 1980 to raise position and exercise limits from 1,000 to 2,000 contracts. In view of the increased use of the options markets and the experience gained during the two years since the position limits were increased in 1980, the Exchange believes that it is appropriate at this time to again increase position and exercise limits.

In its 1980 release approving position and exercise limit increases, the Commission made the following statements (Release No. 34–17237) that the Exchange believes also apply to the current proposal to increase limits:

> * * * there is substantial reason to believe that the current ceiling serves to constrict significantly the options activities of certain market professionals and institutions, possibly to the detriment of market depth and liquidity. In addition, the Commission believes that the surveillance capabilities of the options exchanges with respect to large options positions should minimize the possibility of manipulation. Finally, the Commission believes that the information and experience gained from approval of the proposed modification will enhance the ability of the options exchanges and the Commission to responsibly propose and effectively evaluate possible further modification * * *

It should be noted that position limits cannot be justified as a protection against financial exposure. While unhedged larger positions do entail larger financial risks, position limits are cumbersome and ineffective mechanisms for limiting those risks. Rather, those rules which have been designed specifically to limit risk exposure should be used for this purpose, namely, suitability, margin and net capital rules.

The change from 2,000 to 2,500 option contracts is minimal, especially in view of the Exchange's experience to date with the 2,000-contract limit. The change from 2,000 to 4,000 option contracts involves standards that are a protection against possible manipulation. These standards insure that only option contracts having an underlying stock that has either very high trading volume or high trading volume and a high number of shares outstanding will receive the higher limit. The standards means that the options and stocks involved are significantly less susceptible to manipulation. To be eligible for the 4,000-contract limit, either the most recent six-month trading volume of the underlying stock must have totalled at least 20,000,000 shares; or the most recent six-month trading volume of the underlying stock must have totalled at least 15,000,000 shares and the underlying stock must have at least 60,000,000 shares currently outstanding.

Every six months, the Exchange will review the status of underlying stocks to determine which limit should apply. Two new lists shall be published and distributed to all members, member firms and Registered Options Principals. The 4,000 limit will be effective on the date set by the Exchange, which date will allow time for appropriate notice to be given. Any change from a 4,000 to 2,500 limit will take effect after the last expiration then trading, unless the requirement for a 4,000 limit is met at the time of the intervening six-month review.

The basis for this proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 ("Act") in that the proposed change would increase market depth and liquidity, which is in the public interest, while continuing to protect investors from manipulative activity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5

U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 7, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-0934 Filed 4-13-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C. will hold a public meeting at 1:30 p.m. until 5:00 p.m. Friday, April 15, 1983, at the U.S. Small Business Administration, 1441 L Street, NW., 2nd Floor Conference Room, Washington, D.C. 20416, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mr. Milton Wilson, Jr., Chief, Capital Ownership Development Branch, Small Business Administration, 1441 L Street, NW., Room 317, 20416, (202) 653-6526, in writing or by telephone no later than April 14, 1983.

Jean M. Nowak,

Acting Director, Office of Advisory Council.

[FR Doc. 83-0943 Filed 4-13-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83-024]

Acceptance of Plan Review, Inspections and Examinations by the American Bureau of Shipping (ABS)

AGENCY: Coast Guard, DOT.

ACTION: Notice of public comment period.

SUMMARY: The Coast Guard is requesting comments from the marine industry concerning the implementation of plan review, inspection and examination procedures that have been recently delegated by the Coast Guard to the American Bureau of Shipping.

DATE: Comments must be submitted prior to 1 June 1983.

ADDRESS: Comments may be mailed to Commandant (G-CMC/44), U.S. Coast Guard Heardquarters, Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Commander John DeLeonardis (202-426-2190).

Discussion: During the last two years the Coast Guard and the American Bureau of Shipping (ABS) have reached agreement in several areas where there was preceived duplication of effort particularly with regard to plan review and inspection of classed vessels. Two Memoranda of Understanting (MOU's) have been finalized by both organizations which outline Coast Guard acceptance of ABS performance of certain functions on behalf of the Coast Guard.

One MOU, approved on April 27, 1982, and published at 47 FR 25235 pertains to ABS plan review and inspection during consfruction of new U.S. flag vessels which are to be certificated by the Coast Guard and classed by ABS. Navigation and Vessel Inspection Circular (NVC) 10-82 implements this MOU and provides guidance and technical details necessary to efficiently make the transition under terms of the MOU.

The other MOU, approved on February 1, 1982 and published at 47 FR 13947 allows ABS to perform certain admeasurement services which were formerly provided exclusively by the Coast Guard. Navigation and Vessel Inspection Circular (NVC) 1-82 implements this MOU and provides for Coast Guard acceptance of ABS admeasurement certificates based upon the admeasurement regulations in Title 46 CFR and Title 35 CFR (Panama Canal Tonnage Certificates).

The goals of these agreements and implementing instructions generally are to:

- Reduce confusion within industry
- Reduce needless duplication of effort and time associated with plan approval
- Reduce industry costs and time associated with new vessel inspections
- Reduce Coast Guard costs and provide better utilization of limited inspection resources

In order to assess the relative merit of the new procedures and to report to Congress concerning the implementation of both MOU's the Coast Guard needs information from those in industry directly impacted. Industry's views and response based upon experience with the new procedures are solicited.

Dated: April 6, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83-0903 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-14-M

[CGD83-022]

Lower Mississippi River Waterway Safety Advisory Committee; Establishment

Summary: The Secretary of Transportation has approved the establishment of the Lower Mississippi River Waterway Safety Advisory Committee. The Secretary has also approved the charter for this committee. The purpose of this committee is to furnish consultation, local expertise, and advice on a wide range of matters regarding all facets of navigation safety. It will assist in the evaluation, and where appropriate, the implementation of the recommendations of the Lower Mississippi River Safety Study. It will address such issues as anchorages, communications, traffic control, barge fleeting and other topics on navigation safety in the Lower Mississippi River area as required by the Coast Guard.

For further information contact: Captain D. L. Smith, Executive Director, Lower Mississippi River Waterway Safety Advisory Committee, Marine Safety Division, Eighth Coast Guard District, Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130. Phone (504) 589-6901.

This notice is issued under authority of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. 1.

Dated: April 7, 1983.

V. W. Driggers,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public and Consumer Affairs.

[Fr Doc. 83-0902 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Airframe Policy and Program Review for Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft airframe policy and program review and request for comments.

SUMMARY: The draft Airframe Policy and Program Review Agenda Items Document identifies those policies and Advisory Circulars which have been affected by rule changes or modifications and identifies areas in which new policy and Advisory Circulars need to be developed. Rule changes will not be addressed in this review. A public meeting is to be held in Wichita, Kansas, on June 8–9, 1983, to allow all interested parties to verbally present their written comments regarding the draft Airframe Policy and Program Review Agenda Items Document.

DATE: Commenters must identify file subject: "Airframe Policy and Program Review" and written comments must be received on or before June 8, 1983.

ADDRESS: Send all comments on the draft Airframe Policy and Program Review to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph W. Burress, Aerospace Engineer Regulations and Policy Office ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. Commercial telephone (816) 374–6941 or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this draft Airframe Policy and Program Review Agenda Items Document by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited: Interested parties are invited to submit comments on the draft Airframe Policy and Program Review Agenda Items Document regarding Federal Aviation Administration's recommendations or submit alternate proposals. A public meeting will be held by the Federal Aviation Administration at the Holiday Inn Plaza Downtown, 250 West Douglas, Wichita, Kansas on June 8 and 9, 1983, starting at 8:30 a.m., for the purpose of allowing interested parties to verbally deliver their written comments. The draft Airframe Policy and Program Review Agenda Items Document and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. on weekdays, except Federal holidays.

Issued in Kansas City, Missouri, April 4, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-9821 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 149—Airborne Distance Measuring Equipment (DME); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting RTCA Special Committee 149 on Airborne Distance Measuring Equipment (DME) to be held on May 4–6, 1983 in the RTCA Conference Room, One McPherson Square, 1425 K Street, Suite 500, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Third Meeting Held on February 16–18, 1983; (3) Report on Coordination with the European Organization for Civil Aviation Electronics (EUROCAE) Working Group 25; (4) Report on Coordination with RTCA Special Committee 151 (Airborne MLS Area Navigation Equipment); (5) Discussion on the Effects of Scanning on DME Ground Station Loading; (6) Review Task Assignments From Second Meeting; (7) Review Fourth Draft of Committee Report on Minimum Operational Performance Standards for Airborne Distance Measuring Equipment; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, N.W., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement of the committee at any time.

Issued in Washington, D.C., on April 4, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-9023 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Santa Clara County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed transportation project in Santa Clara County, California.

FOR FURTHER INFORMATION CONTACT: D. L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California, 95809, telephone (916) 440–3541, or R. C. Chioino, Study Manager, State of California, Department of Transportation, P.O. Box 7310, San Francisco, California, 94120, telephone (415) 557–1318.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, will prepare a draft environmental impact statement covering alternative transportation development proposals in the corridor of adopted State Highway Route 85 in Santa Clara County between Route 87 in San Jose and Stevens Creek Boulevard in Cupertino, a length of 14 miles. Transportation improvement is needed in this area to relieve existing and anticipated traffic congestion on highways and streets in the corridor.

Alternatives to be considered, in addition to doing nothing, include construction of a freeway, expressway, bus and carpool facility light rail transit, and combinations thereof. Use of a parallel branch rail line for passenger service will be considered.

The Urban Mass Transit Administration has been requested to participate in this study as a co-lead or responsible agency, but has made no decision regarding its participation at this time.

Public information open houses to gather scoping information were held April 6, 1983, at Rolling Hills Jr. High School, 1585 More Avenue, Campbell, and April 12, 1983, at Branham High School, 1570 Branham Lane, San Jose. Additional meetings for scoping purposes will be scheduled with interested agencies and parties as early as appropriate or as requested; interested agencies and parties who are not already participating in this study are urged to advise the contact persons listed above of their interest.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: April 6, 1983.

D. L. Eyres,

District Engineer Sacramento, California.

[FR Doc. 83-9822 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Number: 150-39]

Creation of the Sacramento, the San Jose, and the Laguna Niguel, California Internal Revenue District

March 28, 1983.

Under the authority given to the President to establish Internal Revenue Districts by Section 7621 of the Internal Revenue Code, as amended, and vested in me a Secretary of the Treasury by Executive Order 10289, approved September 17, 1951, as made applicable to the Internal Revenue Code of 1954 by Executive Order 10574, approved November 5, 1954, and persuant to the authority vested in me by 31 U.S.C. 321, 96 Stat. 877 at 880, September 13, 1982 (formerly Reorganization Plan No. 26 of 1950), and Reorganization Plan No. 1 of 1952 as made applicable to the Internal Revenue Code of 1954 by Section 7804(a) of such code and Executive Order 10574, it is ordered that:

The Los Angeles and San Francisco Internal Revenue Districts be modified as specified below; and

There be established the Sacramento Internal Revenue District, the San Jose Internal Revenue District, and the Laguna Niguel Internal Revenue District with the jurisdictions described below.

1. *Los Angeles District.* Shall include the County of Los Angeles, except for that portion serviced by the Carson post of duty, in the State of California, with the headquarters office located in Los Angeles, California. (The Carson post of duty services the area of Los Angeles County which is generally bordered by the Artesia Freeway on the north, the Pacific Ocean on the west and south, and the Orange County line on the east, and includes in total the following 1982 zip code areas: 90254, 90274, 90277, 90278, 90501, 90502, 90503, 90504, 90505, 90701, 90706, 90710, 90712, 90713, 90715, 90716, 90717, 90731, 90732, 90744, 90745, 90746, 90747, 90802, 90803, 90804, 90805, 90806, 90807, 90808, 90810, 90813, 90814, 90815, and 90840.)

2. *Laguna Niguel District.* Shall include the Counties of Imperial, Orange, Riverside, San Bernardino, San Diego, and that portion of Los Angeles County serviced by the Carson post of duty, in the State of California, with the headquarters office located in Laguna Niguel, California. (The Carson post of duty services the area of Los Angeles County which is generally bordered by the Artesia Freeway on the north, the Pacific Ocean on the west and south, and the Orange County line on the east, and includes in total the following 1982 zip code areas: 90254, 90274, 90277, 90278, 90501, 90502, 90503, 90504, 90505, 90701, 90706, 90710, 90712, 90713, 90715, 90716, 90717, 90731, 90732, 90744, 90745, 90746, 90747, 90802, 90803, 90804, 90805, 90806, 90807, 90808, 90810, 90813, 90814, 90815, and 90840.)

3. *San Jose District.* Shall include the Counties of Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura, in the State of California, with the headquarters office located in San Jose, California.

4. *Sacramento District.* Shall include the Counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba in the State of California, with the headquarters office located in Sacramento, California.

5. *San Francisco District.* Shall include the counties of Alameda, San Francisco and San Meteo, in the State of California, with the headquarters office located in San Francisco, California.

6. *Internal Revenue Districts.* Each District established by this Order pursuant to Section 7621 of the Internal Revenue Code of 1954, as amended, shall be known as an Internal Revenue District and shall be identified by the name of the city or subdivision thereof, in which the headquarters office is located.

7. *District Director of Internal Revenue.* The title of each District Office shall bear the title "District Director of Internal Revenue" identified by the name of the city or subdivision thereof, in which the headquarters office is located.

8. *Effect on Prior Treasury Department Orders.* Treasury Department Order 150-39, dated June 22, 1955, is superseded and in Treasury Department Order No. 150-20, dated November 21, 1952, paragraphs 4(a) and 4(b) are superseded.

9. *Implementation.* The provisions of paragraphs numbered 1-4 of this Order shall be implemented upon such date as the Commissioner of Internal Revenue may determine. Effective immediately, the Commissioner of Internal Revenue is authorized to effect, at appropriate times and in an orderly manner, such transfers of functions, personnel, positions, equipment, and funds as may be necessary to implement the provisions of this Order.

Donald T. Regan,

Secretary.

[FR Doc. 83-9944 Filed 4-13-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 73
Thursday, April 14, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:40 p.m. on Friday, April 8, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Ina State Bank, Ina, Illinois, which was closed by the Illinois Commissioner of Banks and Trust Companies on April 8, 1983; (2) accept the bid for the transaction submitted by First Bank and Trust Co., Mount Vernon, Mount Vernon, Illinois; (3) approve the application of First Bank and Trust Co., Mount Vernon, Mount Vernon, Illinois, for consent to purchase certain assets of and to assume the liability to pay deposits made in The Ina State Bank, Ina, Illinois, and to establish the offices of The Ina State Bank as facilities of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

At the same meeting, the Board of Directors considered certain personnel matters.

At the same meeting, the Board of Directors: (1) Received bids for the purchase of certain assets of an the assumption of the liability to pay deposits made in Bank of San Marino, San Marino, California, which was closed by the Acting Superintendent of Banks for the State of California on April 8, 1983; (2) accepted the bid for the transaction submitted by Trans American National Bank, Monterey Park, California; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the Meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 11, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-524-83 Filed 4-12-83; 11:21 am]

BILLING CODE 6714-01-M

2

FEDERAL ELECTION COMMISSION

"Federal Register" No. 481

DATE AND TIME: Tuesday, April 12, 1983, 10 a.m.

CHANGE IN MEETING: This meeting will be continued on *Wednesday, April 13, 1983 at 2 p.m. and Thursday, April 14, 1983 following the open meeting,* if necessary, to conclude the agenda of April 12, 1983.

* * * * *

DATE AND TIME: Tuesday, April 19, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Personnel. Litigation. Audits.

* * * * *

DATE AND TIME: Thursday, April 21, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Eligibility reports for candidates to receive Presidential primary matching payments:
Draft AO 1983-8: Jan W. Baran, on behalf of the National Republican Senatorial Committee
Candidate's use of property in which spouse has an interest (18 CFR Parts 100, 110, and 9003)
Finance Committee report
Revised non-filer procedures: Directive 1
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-525-83 Filed 4-12-83; 3:41 pm]

BILLING CODE 6715-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., April 20, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 9474-8: Modification of the Thailand/Pacific Freight Conference Agreement to add interior United States point intermodal authority.
2. Classification of Controlled Carriers Pursuant to the Shipping Act, 1916—Pharaonic Shipping Co., SAE.
3. Docket No. 76-63: Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916—Petitions for Reconsideration.

Portions closed to the public:

1. Dart Containerline Co., Ltd. v. Federal Maritime Commission. No. 82-1403, U.S. Court of Appeals for the District of Columbia Circuit.
2. U.K./U.S.A. Gulf Westbound Rate Agreement and Continental/U.S. Gulf Freight Association v. Federal Maritime Commission D.C. Cir. No. 81-1604—Order on Remand.
3. Docket No. 81-64: Midland Pacific Shipping Co., Inc.—I.O.F.F. Lic. No. 1229, Leyden Shipping Corp.—I.O.F.F. Lic. No. 829, Person & Weidhorn, Inc.—L.O.F.F. Lic. No. 122—Discussion of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-528-83 Filed 4-12-83; 3:54 pm]

BILLING CODE 6730-01-M

4

PAROLE COMMISSION

TIME AND DATE: 9 a.m. to 10:30 a.m., Thursday, April 21, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 8 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

[S-526-83 Filed 4-12-83; 3:43 pm]

BILLING CODE 4410-01-M

5

PAROLE COMMISSION

TIME AND DATES: 10:30 a.m.–5:30 p.m., Thursday, April 21, 1983 and 9 a.m.–5:30 p.m., Friday, April 22, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open meeting of January 26 through January 28, 1983.
2. Reports from the Chairman, Vice Chairman, Commissioners, General Counsel, Director of Research, Case Operations, and Administrative Section.

Presentation: *The Dangerous Offender* by Mr. John Conrad, Visiting Fellow at the National Institute of Justice.

4. Prison Population Trends.
5. Referral of Cases to the Pardon Attorney.
6. Pre-Review Procedure.
7. Proposed Parole Commission implementation of the Victim and Witness Protection and Assistance Act of 1982 (Pub. L. 97–291).
8. Rewarding prisoners for Cooperation with law enforcement authorities.
9. Proposed revision of the rescission guidelines.
10. Counting prior convictions for minor offenses.
11. Proposed new or amended Severity Ratings.
12. Expediting Revocation procedures through use of a combined preliminary interview/revocation hearing.
13. Training Aid for rating offense Severity.
14. State Cases with Superior Program Achievement.
15. Simplification of certain rules:

(a) Refusal to Sign parole Certificate;

(b) Narcotic Addict Rehabilitation Act Recertification;

(c) Elimination of repetitive or obsolete Language.

16. Supplemental Warrant Applications after the full-term date.

CONSENT AGENDA: The following consent agenda items, only if previously requested to be opened for discussion at the meeting on or before April 15, 1983:

17. Procedures Manual Revisions effected by Rules and Procedures Memorandum 83/1.
18. Procedures Manual Revisions effected by Rules and Procedures Memorandum 83/2.
19. Training Aid 83–001.
20. Training Aid 83–002.

CONTACT PERSON FOR MORE INFORMATION: Mr. Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492–5980.

[S-527-83 Filed 4-12-83; 3:44 pm]

BILLING CODE 4410-01-M

federal register

Thursday
April 14, 1983

Part II

Department of Transportation

Federal Aviation Administration

Designated Airworthiness Representatives and Advisory Circular

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 183

[Docket No. 23140; Amdt. No. 183-8]

Designated Airworthiness Representatives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment to Part 183 of the Federal Aviation Regulations (FAR) establishes the Designated Airworthiness Representative (DAR) as a new category of person appointed, under Section 314 of the Federal Aviation Act of 1958 (FA Act), to act as a representative of the Administrator in performing certain certification functions under Title VI of the FA Act. The amendment expands the FAA designee program into new areas of delegation not previously provided in Part 183. The expanded delegations are necessary to deal with the proliferation of requests for FAA examination, inspection, and testing services necessary to the issuance of certificates, and the issuance of certificates, under Title VI of the FA Act. This amendment will enable the FAA to use its fiscal and human resources in a more effective manner to meet safety objectives. In addition, the amendment will ease the burden of regulation on the public by expediting accomplishment of required demonstrations of compliance with applicable airworthiness standards and will reduce or eliminate delays in obtaining required certifications.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Sandy DeLucia, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8361.

SUPPLEMENTARY INFORMATION:

Background

Section 314 of the FA Act permits the Secretary of Transportation to delegate to any properly qualified private person any work, business, or function respecting: (1) The examination, inspection, and testing necessary to issue certificates under Title VI of the FA Act, and (2) the issuance of such certificates under Title VI of the FA Act, subject to regulations, supervision, and review as he may prescribe. These certificates include but are not limited to: type certificates; supplemental type certificates; production certificates; airworthiness certificates; export approvals and certificates; components certifications; airman certificates; air carrier/operator's certificates; and air agency certificates. Approved production inspection system authorizations and technical standard order authorizations also come within the purview of Title VI of the Act.

Private persons selected to act as designees are Representatives of the Administrator as described in Part 183 of the Federal Aviation Regulations. This "designee system" has been used extensively within the FAA for over 20 years and has been highly successful. For example, there are now approximately 850 private persons with delegated authority to function as Designated Manufacturing Inspection Representatives (DMIR's) of the Administrator, augmenting a workforce of approximately 140 FAA manufacturing inspectors. DMIR's conduct numerous inspections and certifications on behalf of the FAA, enabling the FAA to meet its safety objectives with a minimal number of FAA manufacturing inspectors. A DMIR authorization, however, is limited to the facilities of the manufacturer by whom the DMIR is employed. Part 183 also provides for the appointment of Designated Aircraft Maintenance Inspectors (DAMI's) with a delegation of authority limited to only one function. The FAA, therefore, finds it necessary to expand the designee program to respond to the many requests for FAA examination, inspection, and testing services relating to certification functions that were not within the very limited scope of designations previously authorized by Part 183. Viewed in the context of increased foreign and domestic demand for FAA inspection and certification services, Part 183 did not provide the FAA with sufficient flexibility to fully utilize its statutory authority to delegate examination, inspection, and testing functions regarding issuing Title VI certificates.

On May 27, 1982, the FAA issued Notice of Proposed Rulemaking (NPRM) No. 82-9 (47 FR 27472; June 24, 1982). The notice proposed to establish DAR's as a new category of persons appointed under Section 314 of the FA Act to serve as Representatives of the Administrator in performing certain certification functions.

Information collection requirements contained in this regulation (§ 183.11) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2120-0035.

Discussion

Although no present need has been established to expand delegations in the area of engineering, as opposed to maintenance and manufacturing, this amendment provides for such expansion should the need arise. The expanded delegations go beyond those previously contained in Part 183, yet remain within those authorized by Section 314 of the FA Act, an approach which is consistent with the goal of reducing costs by streamlining the operations of the Government. This amendment also eases the burden of regulation on the aviation community by expediting the accomplishment of demonstrations of compliance required before the issuance of requested certifications. It will reduce delays commonly experienced by modifiers during supplemental type certification programs due to unavailability of FAA personnel, and thus expedite introducing new products. Delays encountered by persons attempting to return aircraft to service following maintenance/alterations also will be minimized.

By providing for the appointment of qualified persons as DAR's to perform functions not previously authorized in Part 183, the FAA can safely and efficiently increase the productivity of its staff in areas most affecting safety. Those areas in which DAR's may be utilized in the immediate future include: issuing export approvals and export certificates of airworthiness; conducting conformity inspections for modification programs; issuing airworthiness certificates for aircraft; and certifying components produced under bilateral airworthiness agreements.

Delegation of specific functions may be authorized for limited periods of time in accordance with national policy developed by the Director of Airworthiness and may be withdrawn by the appointing authority at any time and for any reason deemed appropriate.

Since every examination, inspection, and testing function delegated to DAR's under the amendment cannot presently be envisioned, it is not possible to specify by regulation all areas in which a DAR may serve consistent with the stated objectives of the amendment. Accordingly, those functions which may be delegated by the Director of Airworthiness are described in an advisory circular (AC) which is being published concurrently with this amendment and which will be available from the U.S. Department of Transportation, Publication Section (M-

442.32) Washington, D.C. 20590. The FAA intends to revise and republish the advisory circular to seek public comment each time it is proposed to add or delete an authorized function. Additional areas of delegation will be selected and authorized by the Director of Airworthiness based on recommendations from other FAA elements and the aviation community.

Consistent with other delegations already provided for in Part 183, this amendment does not mandate the use of DAR's. The election to use such representatives is left entirely to the discretion of the certificate applicant. Also, as with other designees, DAR's may charge the applicant a fee for their services, and DAR's will be subject to FAA surveillance with regard to monitoring and supervising their delegated tasks. It should be noted that the FAA will not reimburse any designee appointed under Part 183 for any expense incurred by the designee in performing authorized functions.

Discussion of Comments

A total of 28 individuals and associations submitted comments on the proposal. Fourteen commenters concur with the proposal as written. Twelve commenters concur but include comments. Two commenters support the DAR program concept and intent but indicate that certain areas should be further defined or clarified. Most commenters fully support the proposed DAR amendment, indicating that it will fill a vital need and have positive economic advantages for both the public and the FAA, with no adverse impact on safety. Many of the comments submitted in response to the NPRM also contain recommendations or take issue with certain aspects of the proposed DAR advisory circular (AC). Accordingly, comments relating to both the NPRM and the proposed AC are discussed in the following paragraphs.

Qualification Criteria

Several commenters indicate a need to publish the qualification criteria to be employed by the FAA for selecting and appointing DAR's. Accordingly, these criteria have been incorporated in an Appendix of the DAR AC. This information will also be made readily available for review at FAA offices identified in the AC.

Several commenters submitted recommendations relative to basic qualification criteria for use in the DAR selection process. These recommendations have been taken into consideration in formulating the criteria.

Expansion or Clarification of Functions

A number of commenters request that the FAA consider further expansion of delegated functions beyond those addressed by the proposed AC. Several commenters also request clarification relative to those functions for which designations may be authorized.

The additional functions requested include: Issuance or amendment of air agency, repairman, and school certificates; issuance of experimental certificates for amateur-built aircraft; revision of maintenance/operations specifications; field approval and return to service via FAA Form 337; determination of compliance with quality control systems; and issuance of special flight permits, provisional airworthiness certificates, and special flight authorizations.

After a thorough evaluation, it has been determined that authorized functions can be expanded to include the issuance of certain special flight permits and experimental certificates for amateur-built aircraft. However, a rapid expansion of delegated functions might severely curtail the FAA's ability to adequately monitor and control this program. Therefore, other than the two aforementioned functions, the FAA does not plan to expand DAR authorization to include any other functions until sufficient experience is gained to ensure safety will not be derogated.

With respect to clarifying delegated functions authorized by the Director of Airworthiness, the AC is revised to identify more explicitly those functions, including the specific types of airworthiness certificates and export approvals which may be issued in the areas of maintenance and manufacturing.

Training Requirements

Several commenters state a need to establish training criteria for newly appointed DAR's. The FAA agrees that this is necessary and will provide certain training for all DAR's. This training will normally be accomplished by the FAA office which has responsibility for monitoring and supervising a DAR's activity. Training will be provided upon appointment and on an ongoing basis, as necessary.

The FAA also has initiated action to develop an optional training course to be given at the FAA Academy at Oklahoma City. The cost of this course will be borne by the FAA on behalf of DAR's electing to participate. Each DAR desiring to take the course will be expected to pay for his/her expenses and transportation.

It should be noted that DAR training will be limited to familiarization with FAA administrative procedures (for example, processing forms, etc.). Training in technical areas will not be provided since the FAA will require that a DAR applicant have the necessary technical expertise as a prerequisite to appointment.

Monitoring and Supervision

Three commenters ask how DAR activities will be monitored and supervised. Consistent with other designee categories, all DAR's will be monitored and supervised as appropriate for the particular authorized functions. This would include: Review of all official forms initiated by a DAR; random post-audit inspections of products which have been certificated by DAR; accompanying a DAR during the inspection of a product to ensure that satisfactory techniques, methods, and procedures are being used; etc. This normally will be accomplished in accordance with FAA internal directives by the FAA office that issues the designation.

Procedural Aspects

Several commenters indicate a need to publish certain procedural aspects, including: scope of authority; training methods; FAA methods of auditing DAR activities; extent of DAR utilization; manner in which DAR's will coordinate with FAA; various FAA forms to be used; and DAR supervision criteria.

Consistent with other categories of designees, DAR procedural matters will be distributed through FAA directives and provided to DAR's as appropriate, and also will be available for review by interested persons at any FAA Aircraft Certification or Flight Standards office.

Miscellaneous Comments

One commenter indicates that the proposed AC could by interpreted as requiring an applicant for DAR appointment to possess credentials in all three disciplines; that is, manufacturing, maintenance, and engineering. It is the FAA's intent that an applicant for DAR appointment would only be expected to have the experience and qualifications appropriate to the particular function for which authorization is sought. For example, if a person is seeking appointment as a DAR only for the purpose of conducting conformity inspections, that person's qualifications could be limited to those necessary to perform that particular task.

A commenter expresses concern that eligibility requirements may be such that only former FAA employees would be

appointed as DAR's. The commenter believes it is imperative to have a proper mix of former FAA employees and industry persons selected as DAR's. The FAA expects a number of former FAA employees to apply for, and be issued, DAR authorizations. However, experience with other categories of designees, such as Designated Engineering Representatives (DER's), has shown that the majority of appointees are from industry. Many DMIR's and persons having FAA Inspection Authorizations are qualified to perform certain of the authorized DAR functions.

One commenter believes that a dual DMIR/DAR appointment would be advantageous since the DMIR authorization could be used for production purposes and the DAR authorization could be used for conformity certifications on components being produced under bilateral airworthiness agreements (a function which cannot be authorized for a DMIR under current regulations). The commenter, however, believes that such a dual appointment might create certain procedural problems. The FAA does, in fact, envision dual appointments such as DMIR/DAR, and DER/DAR, and does not anticipate procedural problems.

One commenter asks whether DAR's will be appointed to meet FAA or industry needs or desires. While there will be no requirement to substantiate the need for DAR appointment as a prerequisite for appointment, the FAA fully expects that those persons appointed as DAR's will be reasonably active in performing authorized functions. Lack of activity for an extended period of time would be cause for terminating a DAR appointment, since administrative costs associated with continuing an inactive appointment could not be justified, and continued currency of experience and familiarity with FAA regulations and government/industry practices and policies could no longer be assured.

Two commenters express concern that the acronym "DAR" may be confused with the DAR (Design Approval Representative) used by the Canadian civil air authorities. The FAA does not believe this will present a problem, except perhaps in those areas which involve Canadian products. In these and other instances where the acronym could be confused, the FAA would suggest using "FAA" as a prefix; that is, "FAA–DAR."

One commenter questions how DAR fees are to be determined. Fees should be negotiated between the DAR and the user of the DAR's services. Although the FAA has statutory authority to prescribe maximum fees which may be charged by designees, the FAA has not found it necessary to do so with other designee programs.

One commenter questions whether or not the FAA will provide liability insurance for DAR's while acting on the FAA's behalf. As with other categories of designees, the FAA will not provide such insurance coverage.

Another commenter questions whether the DAR, the DAR's employer, or the FAA could be held liable for a DAR's actions. Like any other person, a DAR can be held legally accountable and liable for negligent conduct. Similarly, if a DAR has been negligent in his/her capacity as an employee, the employer may also be held accountable and potentially liable. The United States has consistently taken the position that Representatives of the Administrator are not employees of the FAA. Therefore, the FAA neither provides for their legal defense nor considers itself to be liable for a designee's negligent conduct.

Several comments were received concerning the limitations of authority for a DAR. The FAA will issue a certificate of authority to each DAR which will limit the DAR's authority to those functions for which the DAR has been determined qualified. Limitations also may be prescribed within each authorized function, where deemed appropriate. For example, a DAR may be authorized to issue standard airworthiness certificates limited to small aircraft only. Another example would be authority to issue export approvals limited to small rotorcraft only. Such limitations would be based the qualifications and expertise of the particular DAR.

One commenter suggests that the proposal places heavy emphasis on manufacturing, but does not extend into the area of maintenance. Although the proposal may have been perceived in this manner, there was no intent to place greater emphasis on manufacturing over maintenance. In the interest of clarification, the AC will categorize the maintenance and manufacturing functions. The commenter also questions if the FAA plans to convert other FAA designee categories to DAR's. The FAA has no such plan at this time.

One commenter recommends that no geographical limitations be placed on a DAR's activity. Generally, the FAA will limit a DAR to functions within the geographical area of the appointing FAA office to ensure monitoring and supervising capability. However, DAR may perform those functions outside of this area when authorized by the appointing FAA office. If a DAR elects to relocate to another geographical area, the FAA monitoring and supervisory task will be transferred to the appropriate FAA office in that area.

Two commenters suggest that it would be in their own interest and that of the FAA to appoint DAR's for service in Europe, Africa, and the Middle East. They argue that this would result in savings to the FAA, which is often pressed to carry out its overseas mission with limited manpower, and would preclude costly delays in obtaining required FAA certifications and approvals. The FAA does not object to appointing DAR's in foreign countries, although the FAA might not have the necessary resources to monitor and supervise their activities. Accordingly, the FAA will consider appointing DAR's in a foreign country only when it is determined that there would be no undue burden on the FAA in administering the particular program. This would not prevent appointing DAR's to travel to foreign countries to issue airworthiness certificates/tags and export approvals on aircraft and related products.

A commenter questions whether a DAR employed by a particular individual would be on call to FAA to respond to requests for services from other persons, facilities, or locations. The FAA does not require any DAR to be on call to provide services to any person or organization. The use of such representatives is at the discretion of the applicant seeking required certification or approval. One commenter asks whether a DAR's authority would be confined to activity on behalf of his/her employer, unless self-employed. Unlike a DMIR designation, the FAA would not confine a DAR's activity to the DAR's employer.

One commenter recommends that the FAA ensure that safety will not be compromised by inadequate monitoring of the DAR program. The commenter suggests that the FAA establish controls to ensure accountability and to detect and correct instances in which safety considerations may tend to be affected by inherent conflict of interest pressures under which a DAR might be forced to operate. The FAA recognizes the need to provide for adequate controls in monitoring this program. Accordingly, consistent with other designee categories, the FAA will establish internal procedures to ensure that the DAR program will be properly directed toward the FAA's safety objectives.

One commenter asks whether DAR appointments will be of individual persons or of organizations. The FAA

envisions the majority of DAR appointees will be individuals. Since the term "person" is defined in Federal Aviation Regulations, Part 1, to include an individual, firm, partnership, corporation, company, association and joint-stock association, such organizations may be considered for appointment as DAR's. In these instances, the organization would be required to submit, along with its application for DAR authorization, the names, signatures, titles, and qualifications of those persons who would actually perform the authorized functions. Addtionally, such an organization must also submit a procedure, acceptable to the FAA, which positively ensures that only such appropriately qualified persons perform authorized functions. It should be noted that the FAA will hold the organization responsible for complying with the conditions of the DAR appointment, with any necessary corrective actions to be directed at the organization.

Economic Evaluation

Benefits

Economic benefits of the DAR program will be derived from cost savings or improved efficiency. Applicants for certification services will benefit primarily through reductions in costly delays in obtaining certifications required to conduct aviation-oriented enterprises. FAA monitoring and supervision of the DAR program will ensure that the present level of aviation safety will not be diminished. In fact, safety will be enhanced because FAA personnel relieved from tasks accomplished by DAR's will be able to redirect their efforts to other areas affecting safety.

Comments relating to economic benefits indicate that there would be industry cost savings from improved efficiency and reduction of delays in obtaining certifications. One commenter relates that he had to ferry a B-707 to the United States from Singapore to obtain an airworthiness certificate, an example of an expense which could be eliminated by this amendment. Other commenters cite difficulty in arranging FAA aircraft inspections in a timely manner, and expect that the rule will alleviate this problem. After the close of the comment period, the FAA received a letter from a U.S. aircraft modifier indicating that delays in delivering an aircraft located in West Germany, because of the FAA's inability to support a proposed modification program schedule, will create a financial burden of approximately $2,500 per day to the aircraft owner. Such problems could also be alleviated by the rule.

Clearly the DAR program will be of benefit in reducing government costs by permitting certain FAA functions to be undertaken by qualified private persons or organizations.

Based on the high degree of interest and the urgent need for DAR's as expressed by commenters and the numerous inquiries received concerning DAR appointments, the FAA anticipates that the DAR program will be as well received by the aviation public and industry as have been other categories of designees.

Costs

No costs need be incurred by any applicant requiring FAA certification services since the use of a DAR to obtain FAA certification is optional. The FAA will continue to issue required certifications, in accordance with existing practice and policy. Therefore, an applicant determines, at his/her option, when the use of a DAR would prove economically advantageous. None of the comments from industry indicate that this rule will impose additional costs. Those that do address the economic factors indicate that cost savings will result.

There is no cost to the applicant for DAR authorization approval.

The cost of the DAR program to the FAA will be negligible. Although there are selection, training, and orientation costs associated with initiating the program, these are more than offset since DAR's will perform tasks that would otherwise be performed by the FAA.

Regulatory Flexibility Determination

The FAA has determined this rule will not have a significant economic impact on a substantial number of small entities, even though it authorizes fees to be charged for certification services.

This determination is based on the FAA's experience with other designees permitted to charge for their services. Generally, fees have been such that any business or person could afford the services of a designee without being placed at a competitive disadvantage. Additionally, small entities requiring certification services need not engage DAR's, but may continue to request the services of FAA personnel, which will be provided consistent with existing practice and policy.

List of Subjects in 14 CFR Part 183

Airmen, Air safety, Safety, Aviation safety, Air transportation, Aircraft.

The Amendment

Accordingly, Part 183 of the Federal Aviation Regulations (14 CFR Part 183) is amended as follows, effective May 16, 1983.

PART 183—REPRESENTATIVES OF THE ADMINISTRATOR

1. By amending § 183.11 by adding a new paragraph (e) to read as follows:

§ 183.11 Selection.

* * * * *

(e) The Director of Airworthiness, or the Director's designee, may select Designated Airworthiness Representatives from qualified persons who apply by a letter accompanied by a "Statement of Qualifications of Designated Airworthiness Representative."

(Approved by the Office of Management and Budget under OMB control number 2120-0035)

2. By amending § 183.13 by adding a new paragraph (c) to read as follows:

§ 183.13 Certification.

* * * * *

(c) A "Certificate of Authority," stating the specific functions which the person concerned is authorized to perform and stating an expiration date, is issued to each Designated Airworthiness Representative, along with a "Certificate of Designation" for display purposes.

3. By amending § 183.15 by amending paragraphs (a) and (b) by removing the words "under paragraph (c)" and by inserting, in their place, the words "under paragraph (d)"; by redesignating paragraph (c) as (d); and by adding a new paragraph (c) to read as follows:

§ 183.15 Duration of certificates.

* * * * *

(c) Unless sooner terminated under paragraph (d) of this section, a designation as a Designated Airworthiness Representative is effective until the expiration date shown on the Certificate of Authority.

* * * * *

4. By adding a new § 183.33 to read as follows:

§ 183.33 Designated Airworthiness Representative.

A Designated Airworthiness Representative (DAR) may, within limits prescribed by and under the general supervision of the Administrator, do the following:

(a) Perform examination, inspection, and testing services necessary to the issuance of certificates, including

issuing certificates, in the areas of maintenance, manufacturing, and engineering as may be authorized by the Director of Airworthiness.

(b) Charge a fee for his or her services.

(c) Perform authorized functions at any authorized location.

(Secs. 313(a), 314, 601, 603, 605, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1425, and 1502); Sec.6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—This rule establishes a procedure for designating persons to perform certain certification functions previously conducted only by FAA employees, thereby reducing or eliminating certain delays in obtaining required certifications. Further, this document involves a rulemaking action which: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparing a regulatory evaluation because the costly changes associated with the designation procedures are minimal. In addition, I certify that, under the criteria of the Regulatory Flexibility Act, the amendments will not have a significant economic impact on a substantial number of small entities since it will minimally ease the burden of regulatory compliance by reducing certain delays on obtaining required certifications.

Issued in Washington, D.C., on February 14, 1983.

J. Lynn Helms,

Administrator.

[FR Doc. 83-9744 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 183-33]

Advisory Circular for Designated Airworthiness Respresentatives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final.

SUMMARY: This advisory circular (AC) will be used as the vehicle to identify examination, inspection, and testing services related to certification functions in the areas of maintenance, manufacturing, and engineering, which may be delegated to Designated Airworthiness Representatives (DAR's), as may be authorized by the Director of Airworthiness.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Sandy DeLucia, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8361.

SUPPLEMENTARY INFORMATION:

Discussion of the Advisory Circular

The FAA has amended Part 183 of the Federal Aviation Regulations (published elsewhere in this issue). This amendment provides for the establishment of Designated Airworthiness Representatives (DAR's) as a new category of persons appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as representatives of the Administrator in performing certain certification functions under Title VI of the FA Act. This amendment to Part 183 enables the FAA to expand its designee program into new areas of delegation not previously provided for in Part 183. The expanded delegations are necessary since the delegations previously authorized by Part 183 constrained the FAA's ability to deal with the proliferation of requests for FAA examination, inspection, and testing services incident to the issuance of certificates under Title VI of the FA Act. This amendment now enables FAA to use its fiscal and human resources in a more effective manner to meet safety objectives. In addition, the amendment will ease the burden of regulation on the public by expediting accomplishment of required demonstrations of compliance with applicable airworthiness standards and will, therefore, reduce or eliminate certain delays in obtaining required certifications.

As provided, delegation of specific functions may be authorized for limited periods of time in accordance with national policy developed by the Director of Airworthiness, and may be withdrawn by the appointing authority at any time, and for any reason deemed appropriate.

Since each examination, inspection, and testing function which may be delegated to DAR's under the amendment cannot be envisioned, it was not possible to specify, by regulation, all areas where a DAR's services may be used consistent with the stated objectives of the amendments. Accordingly, this AC contains those specific functions which may be delegated in the immediate future. The FAA intends to revise and republish this AC to seek public comment each time revisions are proposed to add or delete any authorized function. Proposed new areas of delegation will be selected and authorized by the Director of Airworthiness based on recommendations from other FAA elements and the aviation community. This procedure will expedite the notification process each time a designated function is to be added or deleted. Consistent with the President's goal of streamlining the regulatory process to eliminate unnecessary requirements, the use of this AC to list specific functions appropriate for delegation to DAR's will provide the FAA with the regulatory flexibility to utilize the DAR program in the most effective and innovative manner.

Discussion of Comments

A total of six individuals and association submitted comments on the proposed AC (47 FR 27475, June 24, 1982). Two commenters concur with the proposal as written. Three commenters concur but also included comments. One commenter supports the DAR program concept but indicates that certain areas should be further defined or clarified. The comments submitted in response to the proposed AC closely parallel those submitted in response to the proposed amendment to Part 183. Accordingly, the FAA discussion of comments relating to both the Notice of Proposed Rulemaking and the proposed AC is contained in the preamble to the amendment to Part 183 (published elsewhere in this issue). Based on the public comments relating to the AC, the AC has been revised to clarify the following areas:

1. Qualification criteria.
2. Training.
3. Specific functions within maintenance, manufacturing, and engineering which may be delegated by the Director of Airworthiness.
4. Monitoring and Supervision.
5. Limits of Authority.
6. Appointing Authority.

The Advisory Circular

In accordance with the above, the FAA publishes AC 183-33, Designated Airworthiness Representatives, as follows.

M. C. Beard,

Director of Airworthiness.

Issued in Washington, D.C., on February 14, 1983.

Advisory Circular

Subject:

Date: February 14, 1983. AC No: 183-33.

Initiated by: AWS-200. Change:

Designated Airworthiness Representatives

1. *Purpose.* This advisory circular (AC) contains information and guidance concerning the selection and appointment of Designated Airworthiness Representatives (DAR's) and identifies the specific functions which may be delegated to DAR's as authorized by the Director of Airworthiness. This AC is effective on the day the amendment to FAR 183 to include DAR's becomes effective.

2. *Related Federal Aviation Regulations (FAR).* FAR's Part 21, Part 43, and Part 183.

3. *Background.*

a. The Federal Aviation Administration (FAA) has amended Part 183 of the FAR to provide for the establishment of DAR's as a new category of person appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as a representative of the Adminstrator in performing certain certification functions in the areas of maintenance, manufacturing, and engineering. This was deemed necessary due to the proliferation of requests for FAA examination, inspection, and testing services necessary to the issuance of certificates, including the issuance of certificates under Title VI of the FA Act.

b. Since each examination, inspection, and testing function which may be authorized by the Director of Airworthiness could not be envisioned, it was not possible to specify, in amended Part 183, all areas where a DAR's services may be used consistent with the objectives of the amended rule. Therefore, this AC will be used as a vehicle to identify and describe the specific functions which may be authorized. The FAA will republish this AC for notice and comment each time revisions are proposed to add or delete any authorized functions.

4. *Eligibility.* Any qualified person may be authorized to represent the FAA as a DAR for the purpose of performing certain examination, inspection and testing services relative to certification functions, in the areas of maintenance, manufacturing, and engineering as may be authorized by the

Director of Airworthiness, and published in this AC.

5. *Qualification Criteria.* The qualification criteria to be used to determine eligibility for appointment as a DAR is contained in Appendix 1. Essentially, the same basic qualifications that are used by the FAA for appointing FAA engineers and inspectors, Designated Manufacturing Inspection Representatives (DMIR's) and Designated Engineering Representatives (DER's), etc., as appropriate, for the particular function for which DAR authorization is being sought, will be employed in the selection and appointment of DAR's.

6. *Application.*

a. Any qualified person may apply for appointment as a DAR. Applications for appointment must be initiated by a letter to the Aircraft Certification Division (for manufacturing and engineering functions), or to the Flight Standards Division (for maintenance functions), located in the geographical area in which the applicant resides or has his/her primary place of business (Addresses of appointing offices are identified in Appendix 2). The application letter must be accompanied by a Statement of Qualifications (for Designated Airworthiness Representative), FAA Form 8110–14 completed in duplicate by the applicant.

b. Applications submitted by individual applicants must be accompanied by three letters attesting to the applicants, integrity and technical qualifications IN PERFORMING SIMILAR FUNCTIONS ON PRODUCTS OF SIMILAR TYPE AND COMPLEXITY TO THOSE FOR WHICH AUTHORIZATION IS BEING SOUGHT. At least one or more of the letters must be from an FAA office, with whom the applicant has had a working relationship. The other letters should be from aviation industry organizations such as a repair station, manufacturer, or air carrier.

c. Applications submitted by an organization must include the names, signatures, titles, and qualifications of those persons who will perform the authorized functions along with a procedure, acceptable to the FAA, which positively ensures that only such appropriately qualified persons will perform the authorized functions.

d. All applicants for DAR appointment will be subjected to a personal interview by the Aircraft Certification Division or Flight Standards Division, as appropriate, prior to appointment.

e. Additional information concerning DAR selection, appointment and qualification criteria may be obtained from any FAA office identified in Appendix 2.

7. *Selection and Appointment.*

a. The appointing office will evaluate the applicant's qualifications, conduct a personal interview, and check personal references as appropriate, prior to appointment.

b. Upon a satisfactory determination, the appointing office will prepare a Certificate of Authority, FAA Form 8430–9. Authorized functions will be stated on the front of this certificate. However, when space limitations preclude the listing of all authorized functions, the Certificate of Authority may reference a letter that identifies the DAR's limits of authority in more detail. The reverse side of the certificate will be endorsed by personnel from the assigned managing office who will personally present the certificate to the DAR. In most cases, it will be necessary to limit the delegated authority of the DAR to specific functions commensurate with the applicant's knowledge and experience. For example:

(1) In the case of individuals, the authorization will be limited to products or similar type and complexity for which the applicant has been determined qualified; or,

(2) In the case of an organization:

(a) Repair stations will be limited to products for which they hold appropriate ratings;

(b) Air carriers will be limited to aircraft covered by their operating certificate;

(c) Manufacturers will be limited (except in the case of components, reference paragraph 14a(9)) to products under the provisions of their particular FAA production approval.

c. The applicant's letter will be acknowledged by the appointing office. This acknowledgement will advise the applicant as to whether or not he/she has been appointed, or the reasons why the delegation of authority has been denied.

d. A Certificate of Designation, FAA Form 8000–5, suitable for framing and display, will be prepared by the appointing FAA Office and presented to the new designee by personnel from the assigned managing office.

8. *Duration of Certificates.* Unless otherwise terminated, appointments will be effective for a period not to exceed one (1) year and may be renewed annually at the discretion of the appointing office. It should be noted that a DAR appointment may be terminated for any reason, INCLUDING A LACK OF SUFFICIENT ACTIVITY TO WARRANT CONTINUANCE OF THE DESIGNATION.

9. *Training.*

a. The FAA will provide training for all DAR's upon appointment and on an ongoing basis, as necessary. This training will normally be accomplished by the FAA managing office. A DAR may, at his/her option, also attend a course to be given at the FAA Academy at Oklahoma City, Oklahoma, when available. Each DAR desiring to take the course will be expected to pay for his/her expenses and transportation.

b. DAR training will be limited to familiarization with FAA administrative procedures. Training in technical areas will not be provided, since the FAA will require that a DAR applicant have the necessary technical expertise and knowledge of the FAR's as prerequisites to appointment.

10. *Monitoring and Supervision.* All DAR's will be subjected to monitoring and supervision as appropriate for the particular authorized functions. This will normally be accomplished by the managing office in accordance with FAA internal directives.

11. *Limits of Authority.* The Certificate of Authority, and supplemental documents, presented to each DAR will identify all authorized functions. These functions will be limited to those for which the DAR has been determined qualified.

12. *Appointing Office.* The Director of Airworthiness has delegated the authority to select and appoint DAR's to: the Managers of Aircraft Certification Divisions regarding authorization to perform engineering or manufacturing functions, and to the Managers of Flight Standards Divisions regarding authorization to perform maintenance functions.

13. *Managing Office.* The managing office is the FAA Field Office assigned responsibility by the appointing office for managing a particular DAR's activity. All DAR authorized functions must be accomplished within the geographical boundaries of the managing office unless otherwise authorized by that office. In those instances where a DAR obtains authorization to perform authorized functions in another geographical area, the managing office will retain the responsibility for monitoring and supervising the DAR's activity.

14. *Authorized Functions.* The Director of Airworthiness hereby determines that the following functions may be delegated to a DAR (following a determination by the Director, or the Director's designee, that the DAR is qualified to perform the particular function).

a. *Manufacturing Functions.* In the area of manufacturing, a DAR may, within limits prescribed by, and under the general supervision of the Administrator, be authorized to perform the following functions in accordance with existing FAA procedures, policies, practices, and pertinent FAR's:

(1) Issue original standard airworthiness certificates for U.S.-registered aircraft;

(2) Issue experimental certificates, for the purpose of showing compliance with regulations, for U.S.-registered aircraft which have undergone changes to the type design and require flight test, prior to the issuance/reissuance of a standard airworthiness certificate;

(3) Issue original restricted airworthiness certificates for U.S.-registered restricted category aircraft, located in the U.S. only;

(4) Issue original experimental certificates for U.S.-registered amateur-built aircraft, located in the U.S. only;

(5) Issue special flight permits for U.S.-registered aircraft for the purposes outlined in FAR 21.197(a)(1) through (5);

(6) Issue original export airworthiness approvals for Class I products (i.e., aircraft, aircraft engines, or propellers), in accordance with the provisions of Part 21, Subpart L, of the FAR's;

(7) Issue original export airworthiness approvals for Class II products (i.e., major components of a Class I product), that are manufactured and located in the United States, in accordance with the provisions of Part 21, Subpart L, of the FAR's;

(8) Conduct conformity inspections and certify that prototype or test articles, parts, or installations, including complete aircraft, to be used for FAA design evaluation purposes, (e.g., type certification or supplemental type certification programs), conform to the design being evaluated; or

(9) Conduct conformity inspections and certify that components manufactured in the U.S. for foreign product manufacturers conform to the design, test, and quality requirements notified to the FAA by the civil

air authority of the country in which the product manufacturer is located.

b. *Maintenance Functions.* In the area of maintenance, a DAR may, within limits prescribed by, and under the general supervision of the Administrator, be authorized to perform the following functions in accordance with existing FAA procedures, policies, practices, and pertinent FAR's:

(1) Issue recurrent standard airworthiness certificates for U.S.-registered aircraft;

(2) Issue recurrent restricted airworthiness certificates for U.S.-registered restricted category aircraft, located in the U.S. only;

(3) Issue recurrent experimental certificates for U.S.-registered amateur-built aircraft, located in the U.S. only;

(4) Issue special flight permits for U.S.-registered aircraft for the purposes outlined in FAR 21.197(a)(1), and (2);

(5) Issue recurrent export airworthiness approvals for Class I products (i.e., aircraft, aircraft engines, or propellers), in accordance with the provisions of Part 21, Subpart L, of the FAR's;

(6) Issue recurrent export airworthiness approvals for Class II products (i.e., major components of a Class I product), that are manufactured and located in the United States, in accordance with the provisions of Part 21, Subpart L, of the FAR's; or,

(7) Issue airworthiness approval tags for U.S.-manufactured spare parts for aircraft, aircraft engines, propellers, materials, parts, or appliances upon a determination that such products have remained in, or have been returned to, their FAA approved design configuration, and are in a condition for safe operation.

c. *Engineering Functions.* (Reserved. No present need has been established to authorize delegations in the area of engineering beyond those presently authorized under the Designated Engineering Representative (DER) program.)

M. C. Beard,

Director of Airworthiness.

Appendix 1. Qualification Criteria

1. *General Qualifications.* In view of the diverse certification functions (i.e., areas of maintenance, manufacturing, and engineering) which may be delegated under FAR 183.33, the FAA must ensure that DAR applicants are appropriately qualified for each requested function. Accordingly, to qualify for an appointment as a DAR, all applicants must meet the general qualifications listed below in addition to having the specialized experience specified in paragraphs 2 and 3, as appropriate, for the particular function for which authorization is being sought:

a. Current and through working knowledge of the FAR's and related material;

b. Current technical knowledge and experience commensurate with that required for the particular function;

c. Unquestionable integrity, cooperative attitude, and the ability to exercise sound judgment;

d. The ability to maintain the highest degree of objectivity while performing authorized functions on behalf of the FAA, consistent with FAA regulations, statutes, and safety goals, notwithstanding any influence to the contrary; and

e. At least two (2) years of satisfactory experience in working with the FAA in connection with the type of work to be covered in the designation.

2. *Specialized Experience Required for Manufacturing Functions.* In the area of manufacturing, FAA Manufacturing Inspectors are responsible for making original (i.e., the first issuance of an airworthiness certificate/approval or export airworthiness approval) determinations that an aircraft or related product conforms to its FAA approved type design configuration and is in a condition for safe operation; or, as appropriate, the original determination that an aircraft or related product meets pertinent FAR requirements (e.g. amateur-built aircraft). Accordingly, in the area of manufacturing, in addition to the general qualifications specified in paragraph 1, a DAR applicant must have the following specialized experience for each particular function for which authorization is being sought:

a. *Issuance of Original Airworthiness Certificates on U.S.-Registered Aircraft.* (Reference Advisory Circular 183-33, paragraph 14a(1) through (5)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) Five years of experinece as an FAA Manufacturing Inspector or Designated Manufacturing Inspection Representative (DMIR) involved in the actual issuance of original airworthiness certificates on AIRCRAFT OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(2) In the case of an organization, as the holder of an FAA Production Certificate (PC), or Approved Production Inspection System (APIS) having a person(s) in its employ with five years of experience similar to that specified in paragraph 2a(1).

b. *Issuance of Original Export Airworthiness Approvals for Class I Products (i.e., Aircraft, Aircraft Engines, or Propellers).* (Reference Advisory Circular 183-33, paragraph 14a(6)). To qualify for authorization to perform this particular function, an DAR applicant must have the following experience.

(1) Five years of experience as an FAA Manufacturing Inspector or DMIR involved in the actual issuance of original export airworthiness approvals on Class I Products OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(2) In the case of an organization, as the holder of an FAA PC, or APIS having a person(s) in its employ with five years of experience similar to that specified in paragraph 2b(1).

c. *Issuance of Original Export Airworthiness Approvals for Class II Products (i.e., Major Components of a Class I Product), that are Manufactured and Located in the United States.* (Reference Advisory Circular 183-33, paragraph 14a(7)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) Three years of experience as an FAA Manufacturing Inspector or DMIR involved in the actual issuance of original export airworthiness approvals on Class II Products OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(2) Show evidence of three years of experience with quality control methods and techniques which demostrates the applicant's ability to determine that Class II Products (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for original export airworthiness approval meet FAR 21, Subpart L, and any other applicable FAR's; and meet the special/additional requirements of the importing country. This experience should include:

(a) First article, in process, and final assembly inspection;

(b) Quality assurance provisions of special processes, e.g., heat treating, brazing, welding, carburizing, plating, etc.;

(c) Destructive and nondestructive inspection;

(d) Manufacturing processes;

(e) Airworthiness assurance (Reference Order 8120.2A, paragraph 183);

(f) Developing/implementing quality control systems/procedures;

(g) Testing procedures; and

(h) Use of FAA approved design data.

(3) In the case of an organization, as the holder of an FAA production approval (i.e., PC, APIS Technical Standard Order Authorization (TSOA), or FAA-Parts Manufacturer Approval (FAA-PMA)) having a person(s) in its employ with three years experience similar to that specified in paragraph 2c(1) or (2).

d. *Conduct Conformity Inspections and Certify Conformity of Prototype or Test Articles, Parts, or Installations, Including Completed Aircraft.* (Reference Advisory Circular 183-33, paragraph 14a(8)). To qualify for authorization to perform this particular function, DAR applicant must have the following experience:

(1) Five years of experience as an FAA Manufacturing Inspector or DMIR involved in making actual determinations that prototype or test articles, parts, or installations, including completed aircraft (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) were in conformity to the design being evaluated by the FAA; or

(2) Show evidence of five years experience with quality control methods and techniques which demonstrates the applicant's ability to determine that prototype or test articles, parts, or installations, including completed aircraft (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought), to be used for FAA design evaluation, conform to the design being evaluated. This experience should include:

(a) First article, in process, and final assembly inspection;

(b) Quality assurance provisions of special processes, e.g., heat treating, brazing, welding, carburizing, plating, etc.;

(c) Destructive and nondestructive inspection;

(d) Manufacturing processes;

(e) Airworthiness assurance (Reference Order 8120.2A, paragraph 183);

(f) Developing/implementing quality control systems/procedures;

(g) Testing procedures; and

(h) Use of FAA approved design data.

(3) In the case of an organization, as the holder of an FAA production approval (i.e., PC, APIS, TSOA, or FAA-PMA) having a person(s) in its employ with five years experience similar to that specified in paragraph 2d(1) or (2).

e. *Conduct Conformity Inspections and Certify Conformity of Components Manufactured in the United States for Foreign Product Manufacturers.* (Reference Advisory Circular 183-33, paragraph 14a(9)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) Three years of experience as an FAA Manufacturing Inspector involved in making actual determinations that components (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) manufactured in the U.S. for foreign product manufacturers were in confirmity with the design, test, and quality requirements notified to the FAA by the civil air authority of the country in which the product manufacturer is located; or

(2) Show evidence of three years experience with quality control methods and techniques on components (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) which demonstrates the applicant's ability to determine conformance to the pertinent design, test, and quality requirements. This experience should include:

(a) First article, in process, and final assembly inspection;

(b) Quality assurance provisions of special processes, e.g., heat treating, brazing, welding, carburizing, plating, etc.;

(c) Destructive and nondestructive inspection;

(d) Manufacturing processes;

(e) Airworthiness assurance (Reference Order 8120.2A, paragraph 183);

(f) Developing/implementing quality control systems/procedures;

(g) Testing procedures; and

(h) Use of FAA approved design data.

(3) In the case of an organization, as the holder of an FAA production approval (i.e., PC, APIS, TSOA, or FAA-PMA) having a person(s) in its employ with three years experience similar to that specified in paragraph 2e(1) or (2).

3. *Specialized Experience Required for Maintenance Functions.* In the area of maintenance, FAA Airworthness Inspectors are responsible for making recurrent (i.e., the issuance, subsequent to the original, of an airworthiness certificate/approval or export airworthiness approval) determinations that an aircraft or related product has remained in or has been returned to its FAA approved type design configuration and is in a condition for safe operation; or, as appropriate, the recurrent determination that an aircraft or related product continues to meet pertinent FAR requirements (e.g. amateur-built aircraft). Accordingly, in the area of maintenance, in addition to the general qualifications specified in paragraph 1, a DAR applicant must have the following specialized experience for each particular function for which authorization is being sought:

a. *Issuance or Recurrent Airworthiness Certificates on U.S.-Registered Aircraft.* (Reference Advisory Circular 183-33, paragraph 14b(1) through (4)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) five years of experience as:

(a) An FAA Airworthiness Inspector involved in the actual issuance of recurrent airworthiness certificates on AIRCRAFT OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(b) A person having responsibility for managing airworthiness certification programs leading to the issuance of airworthiness certificates and/or the release of aircraft to service (e.g. Chief Inspector or Director of Maintenance at an FAA approved repair station, or at the facility of the holder of an air carrier or commercial operators certificate). This person must demonstrate the ability to determine that aircraft (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for recurrent certification have remained in or have been returned to their FAA approved design configuration; or, as appropriate, the recurrent determination that an aircraft meets pertinent FAR requirements; or

(c) The experience as outlined in paragraph 2a(1).

(2) In the case of an organization:

(a) As the holder of a repair station certificate, under FAR 145, with appropriate ratings, having a person(s) in its employ with five years experience similar to that specified in paragraph 3a(1) (a) through (c); or

(b) Any air carrier operating certificate holder with an FAA approved Continuous Airworthiness Maintenance Program (CAMP), having a person(s) in its employ with five years experience similar to that specified in paragraph 3a(1) (a) through (c); or

(c) A manufacturer as defined in paragraph 2a(2).

b. *Issuance of Recurrent Export Airworthiness Approvals for Class I Products (i.e., Aircraft, Aircraft Engines, or Propellers).* (Reference Advisory Circular 183-33, paragraph 14b(5)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) Five years of experience as:

(a) An FAA Airworthiness Inspector involved in the actual issuance of recurrent export airworthiness approvals for Class I Products OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(b) A person having responsibility for managing export airworthiness approval programs leading to the issuance of export airworthiness approvals for Class I Products (e.g., Chief Inspector or Director of Maintenance at an FAA approved repair station, or at the facility of the holder of an air carrier or commercial operators certificate). This person must demonstrate the ability to determine that Class I Products (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for recurrent export airworthiness approval meet FAR 21, Subpart L, and any other applicable FAR's; and meet the special/additional requirements of the importing country; or

(c) The experience outlined in paragaraph 2b(1).

(2) In the case of an organization:

(a) As the holder of a repair station certificate, under FAR 145, with appropriate ratings, having a person(s) in its employ with five years experience similar to that specified in paragraph 3b(1) (a) through (c); or

(b) Any air carrier operating certificate holder with an FAA approved CAMP, having a person(s) in its employ with five years experience similar to that specified in paragraph 3b(1) (a) through (c); or

(c) A manufacturer as defined in paragraph 2b(2).

c. *Issuance of Recurrent Export Airworthiness Approvals for Class II Products (i.e., Major Components of a Class I Product), that are Manufactured and Located in the United States.* (Reference Advisory Circular 183-33, paragraph 14b(6)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) Three years of experience as:

(a) An FAA Airworthiness Inspector involved in the actual issuance of recurrent export airworthiness approvals on Class II Products OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(b) The holder of an IA, Mechanic Certificate with airframe and powerplant ratings, or a repairman's certificate (e.g. avionics, instruments, etc.) who can demonstrate the ability to determine that Class II Products (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for recurrent export airworthiness approval meet FAR 21, Subpart L, and other applicable FAR's; and meet the special/additional requirements of the importing country; or

(c) The experience as outlined in paragraph 2c(1) or (2).

(2) In the case of an organization:

(a) As the holder of a repair station certificate, under FAR 145, with appropriate ratings, having a person(s) in its employ with three years of experience similar to that specified in paragraph 3c(1) (a) through (c); or

(b) Any air carrier operating certificate holder with an FAA approved CAMP, having a person(s) in its employ with three years of experience similar to that specified in paragraph 3c(1) (a) through (c); or

(c) A manufacturer as defined in paragraph 2c(3).

d. *Issuance of Airworthiness Approval Tags for U.S.-Manufactured Spare Parts for Aircraft, Aircraft Engines, Propellers, or Appliances.* (Reference Advisory Circular 183-33, paragraph 14b(7). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) Five years of experience as:

(a) An FAA Airworthiness Inspector involved in the actual issuance of airworthiness approval tags for spare parts for aircraft, aircraft engines, propellers, or appliances (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought); or

(b) The holder of an IA, Mechanic Certificate with airframe and powerplant ratings, or a repairman's certificate (e.g. avionics, instruments, etc.) who can demonstrate the ability to determine that U.S-manufactured spare parts for aircraft, including aircraft engines, propellers, materials, parts, or appliances, (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for airworthiness approval tags have remained in or have been returned to their FAA approved design configuration; are in a condition for safe operation; and meet any other applicable FAR's; or

(c) The experience as outlined in paragraph 2b(1); or

(2) In the case of an organization:

(a) As the holder of a repair station certificate, under FAR 145, with appropriate ratings, having a person(s) in its employ with five years of experience as specified in paragraph 3d(1) (a) through (c); or

(b) Any air carrier operating certificate holder with an FAA approved CAMP, having a person(s) in its employ with five years of experience similar to that specified in paragraph 3d(1) (a) through (c); or

(c) A manufacturer as defined in paragraph 2b(2).

4. *Specialized Experience Required for Engineering Functions.* No present need has been established to authorize delegations in the area of engineering beyond those presently authorized under the Designated Engineering Representative (DER) program. Therefore, specialized experience requirements for this discipline will not be developed until such need has been established.

Appendix 2. Selecting and Appointing Offices

The FAA offices responsible for selecting and appointing DAR's are as listed below. Information concerning DAR selection, appointment and qualification criteria may be obtained from the offices listed below or from any FAA Aircraft Certification Office (ACO), Manufacturing Inspection District Office (MIDO), Manufacturing Inspection Satellite Office (MISO), Flight Standards District Offices (FSDO), General Aviation District Office (GADO) or Air Carrier District Office (ACDO).

a. *Manufacturing and Engineering Functions.* Applications for DAR appointment in the areas of manufacturing and engineering must be submitted to the Aircraft Certification Division listed below that is located in the geographical area in which the applicant resides or has his/her primary place of business.

(1) Aircraft Certification Division, ANE-100, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 273-7328.

(2) Aircraft Certification Division, ACE-100, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-6937.

(3) Aircraft Certification Division, ASW-100, 4400 Blue Mound Road, P.O. Box 1689, Fort Worth, Texas 76101, (817) 624-4512.

(4) Aircraft Certification Division, ANM-100, 17900 Pacific Highway South, Seattle, Washington 98168, (206) 764-7047.

b. *Maintenance Functions.* Applications for DAR appointment in the area of maintenance must be submitted to the Flights Standards Division listed below that is located in the geographical area in which the applicant resides or has his/her primary place of business.

(1) Flight Standards Division, AAL-200, Anchorage Federal Office Building and Courthouse, 701 C Street, Box 14, Anchorage, Alaska 99513, (907) 271-5514.

(2) Flight Standards Division, ACE-200, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-5003.

(3) Flight Standards Division, AEA-200, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, (213) 917-1124.

(4) Flight Standards Staff, AEU-200, 15 Rue de la Loi, 1040 Brussels, Belgium, 513.38.30 Extension 2225, Autovo 793-2720.

(5) Flight Standards Division, AGL-200, 2300 East Devon Avenue, Des Plains, Illinois 60018, (312) 694-7252.

(6) Flight Standards Division, ANE-200, 12 New England Executive Park, P.O. Box 510, Burlington, Massachusetts 01803, (617) 273-7341.

(7) Flight Standards Division, ANM-200, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, (206) 264-7040.

(8) Flight Standards Division, ASO-200, 3400 Norman Berry Drive, East Point, Georgia 30344, P.O. Box 20636, Atlanta, Georgia 30320, (404) 763-7401.

(9) Flight Standards Division, AWP-200, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, (213) 536-6251.

(10) Flight Standards Division, ASW-200, 4400 Blue Mound Road, P.O. Box 1689, Fort Worth, Texas 76101, (817) 624-4911, Extension 500.

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Part III

Department of Transportation

Research and Special Programs Administration

Specifications for Railroad Tank Cars Used To Transport Hazardous Materials; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION
Research and Special Programs Administration

49 CFR Part 173 and 179

[Docket No. HM-175; Notice No. 83-1]

Specifications for Railroad Tank Cars Used To Transport Hazardous Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes changes in the construction and maintenance standards for railroad tank cars used to transport hazardous materials. References to various specification tank cars are to DOT specifications. The proposed changes are as follows:

(1) After December 31, 1986, specification 105 tank cars built before September 1, 1981, that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas, anhydrous ammonia or ethylene oxide would have to be equipped with lower half tank head protection (such as a head shield);

(2) After December 31, 1986, specification 105 tank cars built before September 1, 1981 that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas or ethylene oxide would have to be equipped with: (a) High temperature thermal insulation; and (b) safety relief valves sized according to the requirements for specification 112 and 114 tank cars; and

(3) After December 31, 1986, specification 111 tank cars that have a capacity exceeding 18,500 U.S. gallons and are carrying flammable gas or ethylene oxide would have to be equipped with: (a) Lower half tank head protection; (b) high temperature thermal insulation; and (c) safety relief valves sized according to the requirements for specification 112 and 114 tank cars.

In brief, the proposed rule would require that specifically identified hazardous materials being transported in existing large capacity specification 105 and 111 tank cars have the same added tank head and thermal safety systems that are now required on newly built specification 105 tank cars (HM-174) and on all specification 112 and 114 tank cars (HM-144) when carrying those same commodities.

DATE: Comments must be received on or before June 7, 1983.

ADDRESS: Comments should be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket number and notice number and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except public holidays.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, (202) 426-0897.

SUPPLEMENTARY INFORMATION: At the time DOT commenced its review of specifications for pressure tank cars in the early 1970's, there had been a number of serious railroad accidents involving rail transportation of flammable compressed gases, toxic compressed gases and other hazardous materials. Most of these accidents involved uninsulated pressure tank cars of large capacity (over 18,500 U.S. gallons) built to specification 112 and 114.

Since the specification 112 and 114 tank car shipments of hazardous material were determined to present a more serious threat to public safety, MTB and the Federal Railroad Administration (FRA) assigned first priority to improving the construction and maintenance standards applicable to those cars. It was further decided that after these specification 112 and 114 tank cars had been structurally upgraded, the MTB and FRA would then consider a revision of the standards applicable to the specification 105 tank cars.

Accordingly, on September 15, 1977, MTB published a final rule in Docket HM-144 (42 FR 46306). In summary, the rule requires that:

1. Existing and newly built specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane have both thermal protection (large capacity safety relief valves and high temperature thermal insulation) and tank head protection (such as a head shield);

2. Existing and newly built specification 112 and 114 tank cars used to transport anhydrous ammonia have tank head protection; and

3. All specification 112 and 114 tank cars be equipped with special couplers designed to resist coupler vertical disengagements (self couplers).

After the upgrading of specification 112 and 114 tank cars was substantially completed, MTB initiated rulemaking for specification 105 tank cars. On January 26, 1981, MTB published a final rule in Docket HM-174 (46 FR 8005) affecting new construction of specification 105 tank cars. That final rule also includes a shelf coupler requirement applicable to all specification tank cars. The rule requires that:

(1) Specification 105 tank cars built before March 1, 1981, be retrofitted over a one-year period ending on February 28, 1982, with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars;

(2) All other specification tank cars built before March 1, 1981, be equipped with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars over a four-year period ending on February 28, 1985;

(3) After February 28, 1981, newly built specification 105 tank cars be equipped with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars;

(4) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases, anhydrous ammonia and ethylene oxide be equipped with a tank head puncture resistance system equivalent to that required on certain specification 112 and 114 tank cars (S, T, and J cars);

(5) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases and ethylene oxide be equipped with high temperature thermal insulation equivalent to that required on certain specification 112 and 114 tank cars (T and J cars); and

(6) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases and ethylene oxide be equipped with safety relief valves sized according to the requirements for specification 112 and 114 tank cars.

On July 21, 1980, the same day the notice of proposed rulemaking in Docket HM-174 was issued, MTB also issued an advance notice of proposed rulemaking (ANPRM) in Docket HM-175 (45 FR 48668). That notice sought additional information to allow an evaluation of the need, means, and cost to extend the specified puncture and thermal protection levels of specification 112 and 114 tank cars to:

1. Existing specification 105 tank cars used to transport the same hazardous materials permitted in specification 112 and 114 tank cars;

2. Existing specification 105 tank cars used to transport other hazardous materials such as ethylene oxide, butadiene, poisons, and combustible and flammable liquids or solids; and

3. All other new and existing specification tank cars used to transport the same hazardous materials permitted

in specification 105 tank cars, *e.g.*, specification 111 tank cars.

Comments received in response to the ANPRM and the substantial body of information developed in Dockets HM-144 and HM-174 have been considered in developing the rule proposed in this notice. In all, thirty-eight comments to the ANPRM were submitted to MTB. The depth of coverage in response to the eighteen questions posed by MTB ranged from one or two-page documents limited to a single concern, general observations, or a blanket endorsement of some other commenter's submittal, to documents of more than forty pages covering each of the major issue areas.

Question #1: Accident Data

In the ANPRM, MTB requested details of accidents involving a broad range of hazardous materials according to specification tank car and designated subgroup tank car design characteristics. The tank car subgroup designs were specified in the ANPRM.

Ten responses contained some accident data. Most of the comments were directed at individual commodities or limited movements. One commenter supplied detailed accident data on all major hazardous material rail accidents since 1958. Other commenters supplied accident data on particular hazardous materials or tank car fleet basis. Although the great majority of tank cars included in these data carried flammable gases or anhydrous ammonia, other hazardous materials also were mentioned. These other hazardous materials included ethylene oxide, chlorine, motor fuel anti-knock compound, nitrogen fertilizer solution, refrigerants/dispersants/fluorocarbons, carbon dioxide, sulfur dioxide, ethyl ether, metallic sodium, anhydrous hydrofluoric acid, benzene, acrolein, hydrogen sulfide, vinyl acetate, flammable liquids, propylene oxide, and anhydrous hydrochloric acid. The comments received in this area did not contradict or significantly add to MTB's own data base.

Question #2: Existing Protection Levels

The MTB requested comments on how the levels of head and thermal protection should be ascertained for the various subgroups of existing specification 105 tank cars. Specifically, MTB asked if a point value system reflecting each type and thickness of material should be established.

Most commenters either directly stated or inferred that the levels of needed protection cannot be established for other hazardous materials in the same way as for flammable gases. They contend that safety requirements should be based on the characteristics of the hazardous material being transported and the risks inherent in its transportation by rail. Some commenters noted that the Railway Progress Institute (RPI), the Association of American Railroads (AAR), and FRA were conducting scale model testing and that specific methodologies should await final test results. Several commenters stated that full scale testing was needed to determine the degree of protection provided to such hazardous materials by various specification tank car designs. One commenter recommended that objective engineering formulas from FRA test data be developed to relate the physical and thermal characteristics of the head/tank material, insulation material, jacket material, and tank design.

Overall, MTB did not receive any analyses or approaches to evaluate the levels of puncture and termal protection that the various specification 105 tank cars now possess. The commenters tended to avoid this question on the grounds that it was not feasible, without additional testing, to determine the levels of protection now provided by the various specification 105 tank car designs.

Question #3: Identification and Marking

The MTB requested information on the processes that might be employed to identify and mark each car in the fleet according to the level of head and thermal protection if possesses.

Most commenters answered this question in the same way as for Question #16 on stenciling. They recommend that the current stenciling methods and the alphanumeric system to identify particular car/commodity/protection for specification 112/114 and new specification 105 tank cars be extended to all specification 105 tank cars.

Question #4: Commodity Specific Protection

The MTB solicited comments on whether a different level of thermal and head protection is needed for hazardous materials other than those carried in specification 112 and 114 tank cars. For those hazardous materials which may need different levels of protection, MTB also requested information on what the levels should be and the reasons for the protection level selected. In addition, MTB asked for suggestions on how cars carrying these hazardous materials should be identified and marked.

The commenters who responded to this question believed that hazardous materials should be evaluated individually, with many requiring different or lesser levels of protection than required for the hazardous materials addressed in HM-144. Several commenters offered specific examples of hazardous materials that warrant special protection consideration. Several commenters felt that the existing requirements are already in proportion to protection needs; *e.g.*, the authorized tank car is often required to be constructed to a higher strength specification than the vapor pressure of the hazardous material at ambient temperature warrants.

Commenters generally restricted their opinions to products and car types with which they were directly associated. A variety of reasons were offered in support of various positions.

Two commenters noted that there has never been an incident involving loss of product from a tank car transporting metallic sodium and the metallic sodium is shipped at low vapor pressure. Therefore, they conclude that there is no need for head and thermal protection of tank cars used to transport metallic sodium.

One commenter felt that there might be a justification for a heavier head jacket for cars carrying pyrophorics. The same commenter claimed that there was no justification for retrofit of motor fuel anti-knock compound cars because the disaster potential was much less than for some of the other hazardous materials transported in specification 105 tank cars.

Several commenters identified flammable gases, ethylene oxide, chlorine, and certain poisons as commodities that may be candidates for additional protection. One commenter believed that flammable liquids and combustible liquids have characteristics that do not require the same protection level as do flammable or poisonous gases.

Another commenter cited ethylene oxide, chlorine, and acrolein as hazardous materials that may need additional protection. This commenter believed that the HM-144 thermal protection requirement would not be appropriate for chlorine and acrolein. It was noted that the HM-144 requirement is designed to prevent tank steel from exceeding 800°F for a specific time during exposure to torch or pool fires, whereas chlorine reacts with steel at about 500°F and acrolein polymerizes at about 400°F. Another commenter noted the steel-chlorine reaction problems and suggested that future testing should be directed at producing high temperature insulating systems to improve the thermal resistant performance of chlorine cars. This commenter noted

that, for chlorine cars, there have been more shell punctures than head punctures. Therefore, the commenter concluded that if a thicker tank head or jacket is necessary, then consideration should be given to requiring thicker material for the entire tank. One commenter identified chlorine, vinyl chloride, and isobutylene as the most viable hazardous materials for tank car retrofitting. Another commenter pointed to ethylene oxide cars as the cars most needing retrofit.

No consistent or rigorous criteria for ranking hazardous material in order of the need for additional protection levels evolved from the comments submitted.

Question #5: Accuracy of MTB Estimates

The MTB included in the ANPRM a table of car groupings and estimated protection levels to stimulate comments. It is entitled, "Summary of Estimated Protection Provided by Broad 105 Car Classification Sub-Groupings." Comments on the applicability and accuracy of the table were solicited.

No in-depth analyses or detailed comments pertaining to the table were supplied by the commenters. Several commenters felt that the table represented a reasonable breakdown of the specification 105 tank car fleet. Some suggested that the breakdown of the specification 105 tank car fleet in the table be compared with the results of a study being done by Dynatrend for FRA and/or with the results of Phase 17 of the RPI/AAR Tank Car Project. A more detailed breakdown of the specification 105 car fleet (*e.g.*, hazardous material, by car size, and by car accident history) was recommended by others. Most commenters, however, only addressed the number of cars in each subgroup, not the estimated protection levels of the subgroups.

The commenters generally felt that the two columns offered by the MTB on the estimated status of the tank head and thermal protection of the subgroups were subjective. Many stated that additional testing was needed to quantify the existing levels of head and thermal protection by car design. One commenter felt that the table was misleading for anhydrous ammonia since the table indicates that specification 105 anhydrous ammonia cars have significantly less thermal protection than HM-144 requirements, even though high temperature thermal protection is not required in HM-144 for specification 112 and 114 tank cars used to carry anhydrous ammonia.

Question #6: Fleet Characteristics

The MTB asked that tank car owners and users provide breakdowns of specification 105 tank cars owned or used according to appropriate sub-groupings and characteristics in the table published in the ANPRM.

The limited data submitted did not permit MTB to compile a more accurate or comprehensive characterization of the specification 105 tank car fleet.

Question #7: Retirement, Displacement, Retrofit Considerations

The MTB requested that tank car owners estimate how many specification 105 tank cars would be retired, displaced, or retrofitted if HM-144 performance levels were mandated for the entire specification 105 tank car fleet.

Generally, it appears that the responses to this question were made from varying assumptions as to what the final rule requirements would be. Hence, it is impossible to draw any firm conclusions on the number of cars that would be displaced, retired, or retrofitted if a retrofit requirement for the entire 105 tank car fleet was established.

Question #8: Reasons and Consequences of Retirement or Displacement of Tank Cars

Comments were requested about the reasons for and economic consequences of the retirement of certain cars in lieu of retrofitting. Comments were also requested about the reasons for and the economic consequences of changing car usage rather than retrofitting. The MTB further requested that commenters provide specific information on the age and size of cars which would be considered as strong candidates for retirement or for a change in usage.

Most commenters answered this question in a way which suggested that actual "real world" decisions would have to await a clearer expression of regulatory intent. Various rather general individual opinions were advanced. One commenter stated that cars 28 years or older would be retired because the retrofit cost could not be fuly depreciated over the remaining life of those cars. Another commenter stated that cars listed in the ANPRM Table as subgroup C (LPG) would either be scrapped, or converted to a non-pressure class if a demand for other use could be found for those cars. Another commenter identified small tank cars (approximately 11,000 gallon size) as being strong candidates for a change in usage or retirement.

Question #9: New Car Procurements

Comments were requested on the effect that tank car retirement or usage changes would have on new car procurements.

Most comments were not detailed or specific. It was difficult to determine a consistent or overall direction of the replies. Some commenters stated that all of the retired/dispalced cars would be replaced, while one said that none of the retired/displaced cars would be replaced.

The MTB did not obtain new information from the comments which significantly aided in estimating the impact that the regulatory changes would have on new car procurements.

Question #10: Technical Feasibility of Retrofitting

Assessments of the technical feasibility of retrofitting specification 105 cars were solicited by MTB.

Most of the commenters who responded to this question did not advance technical doubts as to the feasibility of accomplishing the potential retrofit. There were strong opinions that it was not economically practical (because of high costs) to retrofit tank cars by replacing existing valves with larger safety valves. There were also general objections to a retrofit based on the belief that an unretrofitted specification 105 tank car is safer than the unretrofitted specification 112 and 114 tank cars built prior to HM-144.

Even though no significant retrofit obstacles were identified, several commenters observed that because of the growth in diameter of tanks, insulation thickness was restricted by clearance dimensions along railroad rights-of-way. Other commenters considered retrofitting as feasible from a purely technical aspect, but thought that additional testing would be necessary to resolve certain design questions. Several commenters expressed uncertainties concerning the length of time that external coatings applied to specification 105 car jackets could be expected to meet high temperature thermal protection requirements without losing mechanical integrity in severe raiload operational environments.

Question #11: Retrofit Cost Estimates

The MTB requested estimates of the prospective costs of retrofitting given types of specification 105 tank cars. The MTB asked that commenters specify the subgroup and relevant car characteristics (*e.g.*, capacity) upon which their estimates were based; that the specific cost elements be isolated; and that the type of protection system

be identified. In addition, cost estimates for out-of-service time and other cost factors were requested.

The nature and the amount of the estimates supplied by the commenters varied over a wide range. In some cases, it was not clear what cost elements were embraced by the totals.

Question #12: Retrofit Priorities and Timeframes

The ANPRM solicited comments concerning what retrofit priorities and timeframes might be reasonable, and the basis for the priorities and timeframes advocated.

Several of the commenters, while registering doubts about the justification of a retrofit, stated that any retrofit priority should be based on the characteristics of the hazardous materials, with the timeframe related to the need for retrofit, the number of cars affected, and the availability of shop space. One commenter recommended that the retrofit priorities should be based upon the Environmental Protection Agency's Hazardous Substances Categories, and that the number of cars known to be in each of these priority categories would then provide a basis for arriving at reasonable retrofit timeframes. Several commenters believed that retrofit priorities should be based on the characteristics of the hazardous material and car size while one commenter believed that retrofit priorities should be based upon a reconciliation of the level of hazard inherent in the hazardous material and the degree of protection already existing in the cars used. Several commenters suggested priority be given to the HM-144 commodities (flammable gases and anhydrous ammonia).

Question #13: Safety Relief Valves

The MTB asked for comments on the adequacy of current safety relief valves and the extent to which relief valves or discs can be modified on existing cars.

The large majority of commenters felt that a requirement should not be imposed that would mandate replacement of existing valves with larger ones. Although one commenter believed that larger safety valves are of benefit and recommended continued use wherever feasible, many other commenters expressed the opinion that the relief valves currently used on specification 105 tank cars are adequate. The only commenter who discussed directly the feasibility of modifying relief valves or discs stated that existing relief valves on specification 105 tank cars cannot be modified to obtain a larger capacity.

The primary concern of the commenters is the large cost that would be involved if installation of a large capacity safety valve requires cutting a larger hole in the tank. However, the commenters did not indicate the number of cars which would require the cutting of a larger hole.

Question #14: Peculiar Problems or Impacts

The MTB requested information on problems or impacts unique to a commenter's situation, including whether the owner or shipper was a small business.

The general flavor of the comments was that those small businesses owning or operating only a few cars would tend to suffer the most if a comprehensive retrofit were to be required. As in answers to several other questions, commenters seemed to be concerned that an arbitrary requirement might be imposed which would be expensive to comply with and provide little real direct benefits in return.

Question #15: Proof of Performance Levels

The MTB requested opinions on the methods or processes that should be utilized to determine the degree to which given tank head or thermal protection systems meet or exceed a specified performance level.

Several commenters favored complete full-scale testing to prove the effectiveness of proposals in new areas. One commenter suggested that both full-scale puncture and drop hammer tests be performed for systems not previously tested. Several commenters endorsed the FRA thermal test program which was then underway as a step in the right direction.

Question #16: Stenciling

The MTB asked for comments on the requirements, procedures and methods that might be utilized in stenciling or labeling the tank cars.

Most commenters felt that current methods for tank car stenciling could be easily augmented to advise the shippers of the degree of protection provided by specific car types.

Question #17: Reporting Needs

The MTB asked for comments on the reporting requirements for monitoring the progress of any mandated retrofit program.

Most commenters stated that if a reporting requirement is considered necessary then a system similar to that used for HM-144 should be adopted. Several commenters recommended a quarterly reporting schedule, while others recommended a semi-annual report schedule. One commenter suggested that industry should submit to DOT a timetable to monitor progress on a quarterly basis and that DOT should require reports by exception, *i.e.*, from only those who are not meeting the submitted schedule.

Question #18: Operational Substitutes

The MTB asked for comments on operational changes that might be instituted in lieu of retrofitting and still provide acceptable protection levels.

Several commenters suggested that DOT should await recommendations of the Systems Safety Analysis Group of the Inter-industry Task Group. Other commenters suggested that a rule, similar to FRA Emergency Order No. 5, should be adopted. Several commenters believed that operational changes are a more costly solution, especially since they are recurring costs, and should not be required.

Discussion

The MTB and FRA have examined the comments received in respect to actual accident trends, previous regulatory actions, testing results, technical evaluations, traffic statistics and other pertinent information in the possession of MTB and FRA. As a part of this examination, several options were developed and evaluated. A comprehensive benefit-cost analysis was employed to assess the relative merits of each major option.

The provisions of this NPRM are discussed in relationship to each of the three areas of consideration listed in the ANPRM.

The first area addressed in the ANPRM was the issue of extending the specified puncture and thermal protection levels of specification 112 and 114 tank cars (HM-144) to existing specification 105 tank cars that transport the same commodities as specification 112 and 114 tank cars.

In assessing the advisability of regulatory action in this area, the MTB and FRA note that:

(a) Any specification 112 tank car, 114 tank car, or 105 tank car built after August 31, 1981 must have a specified puncture protection level, thermal protection level and safety valve sizing as appropriate, when used to transport flammable gases and the toxic non-flammable gas, anhydrous ammonia.

(b) The safety improvement effectiveness of these protection requirements has been established through operating experience;

(c) Almost all of the flammable gas and anhydrous ammonia rail movement

volume in specification 105 tank cars is carried in newer cars having capacities in excess of 18,500 gallons;

(d) Other than having jacketed ambient temperature insulation, the basic design of the large capacity specification 105 tank cars is essentially similar to the specification 112 and 114 tank cars prior to being retrofitted in accordance with HM-144;

(e) Requiring retrofit of the safety valves on existing large capacity (over 18,500 U.S. gallons) specification 105 tank cars will not require cutting a larger hole in the tank since these cars have a manway cover with an 18 inch diameter; and

(f) The benefit-cost ratio for the retrofit of these large specification 105 tank cars (numbering about 3,000) is positive.

The FRA has determined that the retrofit of specification 105 tank cars would be cost beneficial, provided that the retrofit requirement is limited to those cars having capacities exceeding 18,500 U.S. gallons and used to transport those hazardous materials that historically have an unfavorable accident history and disaster potential (*i.e.*, LPG, ethylene oxide, and anhydrous ammonia). The retrofit proposed in this NPRM requires protection systems that are identical or substantially similar to those that have been extremely successful when applied to other tank cars transporting these commodities. The selection of large capacity specification 105 tank cars for retrofitting is consistent with the previous tank car retrofit rulemaking (HM-144) since the specification 112 and 114 tank cars previously required to be retrofitted were large capacity cars.

A large capacity safety valve is proposed because the combination of thermal insulation and larger safety valve provides the best level of safety. The large safety valve minimizes the product left in the tank at the point of tank failure and provides additional benefits in the case where the car is overturned and must vent liquid as well as vapor.

The cost involved in requiring a large capacity safety valve, as was required in HM-144 and HM-174, is not excessive since MTB and FRA are proposing a rule limited to tank cars with a volume over 18,500 gallons. The MTB and FRA believe that most, if not all, of these cars already have a manway of at least 18 inches in diameter, *i.e.*, large enough to be equipped with the large capacity valve. Thus, no changes in the tank structure, would be necessary. At most, a new manway cover plate will be necessary.

For those tank cars with a manway cover having a major dimension or diameter of less than 18 inches, MTB and FRA have proposed an alternative system that would allow the use of additional thermal protection in conjunction with existing safety valves. With this system, there should be no liquid remaining in the tank car at the moment of failure in those incidents in which the tank car remains upright. Under this option, there could be situations where the tank car pressures slightly exceed the pressures prescribed in § 179.100-15 and § 179.102-11; however, the pressures would not exceed the tank test pressure. A technical analysis explaining the safety validity of this option, and the consistency of the option with safety criteria established in HM-144, is in the docket.

The MTB and FRA are interested in determining the number of tank cars, if any, that have a manway cover with a major dimension or diameter of less than 18 inches. Therefore, it is requested that tank car owners who have cars with a manway cover having a major dimension or diameter of less than 18 inches provide the following information in their comments to the docket:

(a) The reporting marks(s) of the car(s);

(b) the manway cover diameter or major dimension, layout, and arrangement, including the location of all valves and fittings;

(c) a description of the existing insulation system on the tank car; and

(d) a list of all hazardous materials that are transported in the particular car(s).

At the present time and with the information available, MTB and FRA do not believe a rule requiring a retrofit of existing specification 105 tank cars having capacities less than 18,500 gallons carrying the identified hazardous materials is warranted on a cost/benefit basis. Many of these cars are nearing the end of their service life. Hence, the cost of retrofit might not be recovered in the remaining tank car life. More importantly, these smaller capacity cars have a lower utilization rate, reducing their exposure to potential accident situations. Finally, their smaller capacity presents a smaller safety risk should they be involved in an accident.

The second area of consideration for potential rulemaking listed in the ANPRM was to extend the specified puncture and thermal protection levels of specification 112 and 114 tank cars (HM-144) to existing specification 105 tank cars that transport other hazardous materials such as ethylene oxide, butadiene, poisons, and combustible and flammable liquids or solids.

Beyond some general mention of certain hazardous materials, the commenters did not support the extension of thermal and puncture requirements as applied to flammable and toxic poisons to "other" hazardous materials carried in existing specification 105 tank cars. The MTB and FRA have reviewed the safety record and the threats posed by all of the hazardous materials carried in specification 105 tank cars. Using the same rationale as was used in the final rule in HM-174, the MTB and FRA believe that the characteristics and threats posed by ethylene oxide are so close to materials classes as flammable gas that the same retrofit requirements should be adopted for tank cars used to transport this material. The expected benefits are the same as those identified for flammable gases.

The FRA is unable to justify similar retrofit requirements for specification 105 tank cars carrying other hazardous materials. This is true even though hazardous materials such as chlorine, acrolein, and motor fuel anti-knock compounds have properties that pose a high risk in accidents. However, these hazardous materials differ from flammable gases in that the identical level of thermal protection may not provide the same duration to failure or alleviate the potential catastrophic consequences to the same degree. Moreover, these hazardous materials are often carried in cars with different and better relative protection levels than tank cars authorized for flammable gases.

In regard to thermal protection, the more dangerous of the other hazardous materials undergo rapid decomposition or polymerization at elevated temperature, but neither the failure mechanisms nor countermeasures are as yet adequately tested or understood. For example, in the case of chlorine, it has not been determined that there have been any accident consequences that would definitely have been avoided if high temperature thermal protection identical to that required for flammable gases had been in place. Moreover, unlike flammable gases, a thermally induced rupture of a chlorine car would not increase the fire or continue a chain reaction spread of fire engulfment.

The MTB and FRA also considered increased puncture resistance for existing cars carrying hazardous materials such as chlorine, motor fuel anti-knock compound, and sulfur dioxide. The MTB and FRA are not convinced that an increased puncture

resistance requirement is justified based on accident experience and the current protection levels built into the cars authorized to transport these materials. The primary basis for this view is the fact that these hazardous materials are required to be shipped in tank cars with pressure ratings in excess of that needed to contain these products. Therefore, these cars already have some increased degree of built-in puncture resistance. Although this tank head puncture resistance may not be equivalent to HM-144/HM-174 performance levels, the safety record of these cars is such that MTB and FRA cannot now justify their retrofit or redesign to achieve an incremental amount of additional protection. It should also be noted that all specification 105 tank cars carrying hazardous materials are now required to have shelf couplers (per HM-174), which diminishes the probability of coupler-inflicted tank punctures.

With the exception of ethylene oxide, MTB did not find sufficient threats to safety, nor cost-benefit justification, for proposing an extension of thermal and head protection for tank cars to materials other than those addressed in dockets HM-144 and HM-174.

The final area of consideration identified in the ANPRM suggested that there may be safety benefits in regulatory action to extend the specified puncture and thermal protection levels of the specification 112 and 114 tank cars (HM-144) to other new and existing specification tank cars that carry the same hazardous materials as specification 105 tank cars, *e.g.*, certain specification 111 tank cars.

The MTB and FRA have examined the hazardous materials transported in both specification 105 tank cars and specification 111 tank cars. There are approximately 300 specification 111A100W4 tank cars that are authorized to move flammable gases and ethylene oxide, the hazardous materials determined by MTB and FRA to warrant additional protection. The size of this fleet will not increase, because on October 9, 1981 the Association of American Railroads (AAR) specified that:

(a) After October 1, 1981, no specification 111A100W4 tank cars may be newly built for or converted to ethylene oxide service. Existing specification 111A100W4 tank cars in ethylene oxide service must comply with the coupler restraint requirements of 49 CFR § 179.105-6 by March 31, 1982; and

(b) After October 1, 1981, each class 105 tank car converted to ethylene oxide service must comply with Class 105J coupler restraint, head shield and thermal protection requirements for new construction.

However, for the same reasons as previously stated with respect to the large (over 18,500 U.S. gallons) specification 105 tank cars, MTB and FRA believe that the retrofit of the large specification 111 tank cars carrying ethylene oxide and flammable gases is cost beneficial.

In order to be consistent with the AAR actions and avoid unnecessary complexity, the proposed rule does not authorize any newly constructed specification 111 tank cars for ethylene oxide or flammable gas service. New construction of specification 111 tank cars is not needed since specification 105 tank cars may be constructed to carry these commodities.

Section-By-Section Analysis

Section 173.124 Ethylene oxide.

It is proposed to amend paragraph (a)(5) of § 173.124 to require that each specification 105 tank car built before September 1, 1981, with a capacity in excess of 18,500 U.S. gallons, shall conform to specification 105J when transporting ethylene oxide after December 31, 1986. (Specification 105 tank cars built after August 31, 1981 are currently required to conform to specification 105J when transporting ethylene oxide.) Requiring a specification 105J tank car would mean that existing specification 105 tank cars would have to be retrofitted with high temperature thermal protection, tank head protection, and large safety valves by December 31, 1986 if they are to continue in ethylene oxide service.

It is also proposed to amend paragraph (a)(5) to require that each specification 111 tank car, with a capacity in excess of 18,500 U.S. gallons, conform to specification 111J when transporting ethylene oxide after December 31, 1986. Thus, each existing specification 111 tank car would have to be retrofitted with high temperature thermal protection, tank head protection, and large safety valves by December 31, 1986 in order to continue to carry ethylene oxide.

Section 173.314 Requirements for compressed gases in tank cars.

It is proposed to amend this section to require that existing DOT specification 105 tank cars (those built prior to September 1, 1981) used to transport anhydrous ammonia, and with a capacity exceeding 18,500 U.S. gallons capacity, be retrofitted by December 31, 1986 with lower tank head protection, *i.e.*, conform to specification 105S. It is further proposed that existing specification 105 tank cars with a capacity exceeding 18,500 U.S. gallons, used to transport flammable gases, be retrofitted with thermal protection, head protection, and large safety valves by December 31, 1986, *i.e.*, conform to specification 105J. It is also proposed to require that each specification 111 tank car with a capacity exceeding 18,500 U.S. gallons, used to transport flammable gases, shall conform to specification 111J.

Section 179.102-12 Ethylene oxide.

It is proposed to amend this section to require that existing specification 105 tank cars (built prior to September 1, 1981 and with a capacity exceeding 18,500 gallons) used to transport ethylene oxide be retrofitted with high temperature thermal protection, tank head protection, and large safety valves by December 31, 1986 if they are to continue in ethylene oxide service.

Section 179.105-7 Safety relief valves.

It is proposed to add a new paragraph (c) which would allow the use of smaller safety valves if the thermal protection exceeds the minimum thermal protection required in § 179.105-4.

Section 179.106-1 General.

It is proposed to amend this section by requiring that existing specification 105 tank cars manufactured to the specifications of the Canadian Transport Commission conform to the same standards prescribed for DOT specification 105 tank cars.

Section 179.106-3 Previously built cars.

It is proposed to amend this section by establishing performance requirements for specification 105S and 105J tank cars build before September 1, 1981. The proposed requirements for the 105S and the 105J tank cars in this section are identical to the requirements in § 179.106-2 for new cars.

Section 179.200-27 Alternative requirements for tank head puncture resistance systems.

It is proposed to add this section to clarify that specification 111 tank cars may utilize a head shield as prescribed in § 179.100-23 instead of meeting the puncture resistance requirements in § 179.105-5.

Section 179.202-18 Ethylene oxide.

It is proposed to add a new paragraph (a) (10) in § 179.202-18 to require that each specification 111 tank car used after Decembeer 31, 1986 for the

transportation of ethylene oxide, with a capacity exceeding 18,500 U.S. gallons, conform to class 111J.

Section 179.203 Special requirements for specification 111 tank cars.

It is proposed to add a new section setting out special requirements for specification 111 tank cars that is parallel to § 179.106 for specification 105 tank cars.

Economic Impact

MTB has determined this proposed rule is not a "major rule" under the terms of Executive Order 12291, but it is "significant" under DOT procedures (44 FR 11034). A regulatory evaluation and environmental assessment is available in the Docket at the address shown above. Based on the comments received in response to the ANPRM and the information contained in the regulatory evaluation, I certify that this proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Parts 173 and 179

Railroad safety, Hazardous materials transportation.

In consideration of the foregoing proposed rule, Parts 173 and 179 of Title 49 Code of Federal Regulations would be amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. In § 173.124, paragraph (a) (5) would be amended by adding paragraph (iii) and (iv) to read as follows:

§ 173.124 Ethylene oxide.

(a) * * *

(5) * * *

(iii) After December 31, 1986, each specification 105 tank car built before September 1, 1981, and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, used for the transportation of ethylene oxide, shall conform to specification 105J.

(iv) After December 31, 1986, each specification 111 tank car with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, used for the transportation of ethylene oxide, shall conform to DOT specification 111J.

* * * * *

2. In § 173.314, notes 23 and 24 to the table in paragraph (c) would be revised to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) * * *

Note 23.—Each specification 105 tank car built after August 31, 1981, shall conform to class DOT-105J. After December 31, 1986, each specification 105 tank car build before September 1, 1981, and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT-105J. After December 31, 1986, each specification 111 tank car with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT-111J.

Note 24.—Each specification 105 tank car build after August 31, 1981, shall conform to class DOT-105S. After December 31, 1986, each specification 105 tank car build before September 1, 1981, and with a water capacity (shell full volume including manways) exceeding 18,500 U.S gallons, shall conform to class DOT-105S

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

3. In § 179.102-12, paragraph (a) (10) would be added to read as follows:

§ 179.102-12 Ethylene oxide.

(a) * * *

(10) After December 31, 1986, each tank built before September 1, 1981, and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, used for the transportation of ethylene oxide, shall conform to class DOT-105J.

4. In § 179.105-7, paragraph (c) would be added to read as follows:

§ 179.105-7 Safety relief valves.

* * * * *

(c) Notwithstanding paragraph (a) of this section, § 179.100-15, and § 179.102-11, the relieving or discharge capacity of a specification 105 or 111 tank car built before (the effective date of the final rule) and with a manway cover having a dimension or diameter of less than 18 inches may be calculated in accordance with the formula prescribed in AAR Specifications for Tank Cars, Section A 8.02. of Appendix A applicable to compressed gases in insulated tanks, if—

(1) The tank car is equipped with a thermal protection system in accordance with § 179.105-4; and

(2) in all of the three consecutive simulation pool fire tests required by paragraph (d) of § 179.105-4, none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 540°F.

5. In § 179.106-1, paragraph (e) would be added to read as follows:

§ 179.106-1 General.

* * * * *

(e) Notwithstanding the provisions of § 173.8 of this subchapter, no specification 105 tank car manufactured before September 1, 1981 to specifications promulgated by the Canadian Transport Commission and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, may be used after December 31, 1986 to transport hazardous materials unless it is equipped in accordance with § 179.106-3.

6. Section 179.106-3 would be revised to read as follows:

§ 179.106-3 Previously built cars.

(a) Each specification 105A tank car built before March 1, 1981, shall be equipped with a coupler restraint system that meets the requirements of § 179.105-6.

(b) Each specification 105S tank car built before September 1, 1981, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105-6; and

(2) A tank head puncture resistance system that meets the requirements of § 179.105-5.

(c) Each specification 105J tank car built before September 1, 1981, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105-6;

(2) A thermal protection stystem that meets the requirements of § 179.105-4;

(3) A safety relief valve that meets the requirements of § 179.105-7; and

(4) A tank head puncture resistance system that meets the requirements of § 179.105-5.

7. Section § 179.200-27 would be added to read as follows:

§ 179.200-27 Alternative requirements for tank head puncture resistance systems.

Tank cars required to have puncture resistance systems in accordance with § 179.105-5 may, as an alternative, be equipped with a head shield, at the end of each car in accordance with a head shield at the end of each car in accordance with the requirements of § 179.100-23.

8. In § 179.202-18, paragraph (a)(10) would be added to read as follows:

§ 179.202-18 Ethylene oxide.

(a) * * *

(10) After December 31, 1986, each tank built with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT-111J.

9. Section 179.203 would be added to read as follows:

§ 179.203 Special requirements for specification 111 tank cars.

§ 179.203-1 General.

(a) In addition to the requirements of this section, each tank car built under specification 111 shall meet the applicable requirements of §§179.200, 179.201, and 179.202.

(b) Notwithstanding the provisions of §§ 179.3, 179.4, and 179.6, AAR approval is not required for changes in or additions to specification 111 tank cars in order to comply with this section.

(c) Notwithstanding the provisions of § 173.8 of this subchapter, no specification 111 tank car manufactured to specifications promulgated by the Canadian Transport Commission may be used after February 28, 1985, to transport hazardous materials in the United States unless it is equipped with a coupler vertical restraint system that meets the requirements of § 179.105-6.

(d) Notwithstanding the provisions of § 173.8 of this subchapter, no specification 111 tank car manufactured before October 1, 1981 to specifications promulgated by the Canadian Transport Commission and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, may be used after December 31, 1986 to transport flammable gases or ethylene oxide unless it is equipped in accordance with § 179.203-2.

§ 179.203-2 Previously built cars.

(a) Each specification 111J tank car built before (the effective date of the final rule) shall be equipped with:

(1) A coupler vertical restraint system that meets the requirements of §179.105-6;

(2) A thermal protection system that meets the requirements of § 179.105-4;

(3) A safety relief valve that meets the requirements of § 179.105-7; and

(4) A tank head puncture resistance system that meets the requirements of § 179.105-5.

§ 179.203-3 Stencilling.

Each specification 111 tank car built before (the effective date of the final rule) that is equipped as prescribed in § 179.203-2(a) shall be stenciled by having the letter "J" substituted for the letter "A" in the specification marking.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, Appendix A to Part 1 and paragraph (a)(4) of Appendix A to Part 106)

Issued in Washington, D.C. on March 30, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-9737 Filed 4-13-83; 8:45 am]

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Thursday
April 14, 1983

Part IV

Department of Transportation

Office of the Secretary

Acquisition for Federal and Federally-Assisted Programs

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 25

[OST Docket No. 79; Notice No. 83-11]

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; Acquisition for Federal and Federally-Assisted Programs

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would establish uniform cost-effective policies and procedures governing the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act (42 U.S.C. 4601) for all programs within the Department of Transportation (DOT). The DOT is publishing this proposed regulation at the request of the Office of Management and Budget (OMB). Upon issuance, these regulations will serve as the basis for a uniform regulation issued by each Federal agency covered by the Act.

DATES: Comments must be received by the Department on or before May 31, 1983.

ADDRESSES: Comments should be submitted to Docket Clerk, OST Docket No. 79, Department of Transportation, 400 7th Street, SW., Room 10241, Washington, D.C., 20590. Commentors wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. Comments will be available for review at the above address from 9:00 a.m. to 3:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Kennedy, Director, Office of Right-of-Way (202-426-0342); Mr. Reid Alsop, Office of the Chief Counsel (202-426-0800); Ms. Martha Schwendeman Curin, Office of Economics, OST, (202-426-4492); or Ms. Lynne Adams-Whitaker, Office of General Counsel (202-426-4723); Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours Monday through Friday from 7:45 a.m. to 4:15 p.m., ET.

SUPPLEMENTARY INFORMATION: To promote the uniform and effective administration of Federal and Federally-assisted relocation assistance and real property acquisition, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 authorizes and directs the heads of Federal agencies to consult together on the establishment of regulations and procedures for the administration of such programs.

In May 1982, the office of Management and Budget formed a Uniform Act Interagency Regulatory Review Working Group to review existing Federal agency regulations which implement the Uniform Act, and to develop recommendations for uniform regulations to be issued by each covered agency to implement the Act. This was done in response to concerns expressed by States and local governments through the President's Task Force on Regulatory Relief. This effort was also influenced by a report from the Comptorller General to the Congress dated March 8, 1978, entitled *Changes Needed in the Relocation Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs.*

In this report, the Comptroller General indicated that "* * * GAO found an inconsistent, inequitable, and confusing array of differing formats, terminologies, and guidelines in 13 Federal agencies' regulations resulting in people being treated differently when displaced by these agencies." Among the several recommendations made is one for a single set of Federal regulations to implement the Uniform Act.

Legislative proposals subsequently introduced in the Congress have called for a single Government-Wide Uniform Act regulation to improve consistency of treatment of affected property owners and displaced persons, and to ease existing administrative burdens. The most recent is S. 2363 which passed the Senate during the 97th Session of Congress (see Senate Report 97-487). None of the proposals, however, has been enacted into law.

In addition to the Working Group, the OMB also established a policy-level Interagency Regulatory Review Steering Group. The Steering Group and the Working Group, both chaired by OMB, included representatives from the Department of Housing and Urban Development, Department of Transportation, Department of Interior, and Department of the Army (Corps of Engineers), and the Environmental Protection Agency served on the Working Group.

The Working Group found that there are 21 separate Federal regulations (including those of the Postal Service, and the Navajo and Hopi Indian Relocation Commission) implementing the Uniform Act currently in the Code of Federal Regulations. The differences in these regulations have resulted in inconsistencies and inequities in the treatment of affected property owners and displaced persons, as well as costly and unnecessary administrative burdens on States and local governments.

Following its review of the Working Group's recommendations, the policy-level Steering Group recommended that this proposed regulation be published for public comment by a single agency, the Department of Transportation is doing so at the request of the Office of Management and Budget. The final regulation will serve as the DOT regulation implementing the Uniform Act. Following issuance of the final DOT regulation, all other Federal agencies charged with implementing the Act (identified later in this discussion) will be requested to review and analyze their own regulations based on the DOT regulation and make appropriate changes through notice and comment rulemaking.

At the present time, the responsibility to coordinate the implementation of the Uniform Act, and to chair the Relocation Assistance Implementation Committee (RAIC) established in 1971 is vested in the General Services Administration by the President's memorandum of September 6, 1973. Government-wide regulations to implement the Uniform Act, were issued by the General Services Administration, at 41 CFR 101-6.1. However, the RAIC has not been active in recent years, and OMB is providing the leadership for this current effort in connection with the President's Task Force and Regulatory Relief.

A description of significant features of the proposed regulation follows. As previously stated, it is intended that this regulation will first be promulgated as a DOT regulation, and eventually serve as a model for all other affected agencies. Comments submitted will be reviewed by the Interagency Working Group under the leadership of OMB. The ultimate goal is to eliminate the present inconsistencies in the treatment of persons whose property is acquired for a Federal or a Federally-assisted project and persons displaced for such a project and treat all such persons equally. This proposed regulation would be applicable to both direct Federal programs and projects and to Federally-assisted programs and projects undertaken by State and local government. The proposed regulation would also simplify existing policies and procedures, and reduce costs, and the administrative burdens presently imposed on State and local government agencies which must now carry out the Uniform Act requirements under the 21 separate regulations of different Federal agencies. Furthermore, this proposed rule would increase the latitude of State and local

government agencies in carrying out the policies set forth in the Uniform Act.

Scope of Acquisition Regulations

Sections 25.101(a) and (b) indicate the scope of the real property acquisition policies and procedures at Subpart B. The Uniform Act and the regulations at Subpart B apply to the acquisition of real property by a State, city, or other State agency for a Federally-assisted program or project. In such cases, it does not matter whether the Federal financial assistance was used to fund the acquisition of the property. The acquisition of real property includes the acquisition of a life estate, a long-term lease, as easement, or other less-than-fee interest in real property. However, this Subpart does not apply to voluntary acquisition not under the threat of eminent domain, where the owner is informed in advance that the property would not be acquired if an amicable agreement is not reached.

Section 25.101(c) provides that, for projects carried out by States and State agencies with Federal financial assistance, §§ 1125.102, 25.103, 25.104, and 25.105 of the regulations would apply to the extent practicable under the laws of the applicable State. Exceptions to compliance would be addressed in the agency's assurances of compliance made pursuant to Section 305 of the Uniform Act and §§25.3(a) of this proposed rule.

Offer of Just Compensation

Section 25.102(d) would require an agency to establish and promptly offer the full amount it believes to be just compensation for property. The offer must be in writing and may not be less than the amount of the agency's approved appraisal. The offer may exceed the amount of the approved appraisal if, in the judgment of agency officials, the higher offer reflects just compensation for the property.

Administrative Settlements

Section 25.102(i) addresses those situations where an agency should consider a compromise settlement with the owner as an alternative to instituting condemnation action. Judicial resolution of a value question is time-consuming and expensive for both the property owner and the agency. It should be reserved for matters of substance and importance, such as when the dollar differences are substantial or an important principle or precedent is involved in order to minimize litigation costs and to limit court caseloads. Nonjudicial settlements are advocated when it is reasonable, prudent, and in the public interest to do so. Administrative settlements require a written justification.

It is intended that administrative settlements be negotiated, reviewed, and approved by program officials. Appraisers, including review appraisers, must not be requested to adjust their fair market value estimates for the purpose of justifying a settlement. Such a change by an appraiser would invalidate the appraisal process.

Uneconomic Remnants

Section 25.102(k) would govern the acquisition of uneconomic remnants. An uneconomic remnant is "a remaining part of property in which the owner is left with an interest that the agency determines has little or no utility or value to the owner." If a remainder has either little utility *or* little value to an owner, it must be considered an uneconomic remnant and the agency must offer to purchase it. Thus, the agency would assume the risk of financial loss from a sale of a remnant to a third party.

Rent to Former Occupant After Acquisition

Under § 25.102(m), the rental rate charged to a former owner or tenant for the use of property between the date of acquisition and the date of displacement would not exceed either the fair rental value to a short-term occupier, or the market rent, whichever is less. Short-term rental rates are often higher than longer term rates. It is the intent of the Congress that former tenants and owners be protected from excessive and possibly coercive rental rates.

Appraisal Standards

Section 25.103(b) sets forth certain nationally recognized standards for the appraisal of complex or high value properties to be acquired for a project subject to the Uniform Act. However, since it is intended that the content of an appraisal be commensurate with the complexity of the appraisal assignment, agencies would be permitted to follow lesser standards in the appraisal of low value properties which do not involve complex valuation requirements. This flexible standard is expected to reduce appraisal costs for agencies while ensuring that the rights of property owners to receive just compensation are fully protected. Since most acquisitions are rather straight forward appraisal problems, this approach would provide flexibility to the acquiring agencies to use less detailed appraisals on the bulk of their acquisitions, and assure a consistently high standard for the expensive and difficult cases.

Section 25.103(b)(3) would permit an agency to base its determinations of just compensation on appraisals which do not include value estimates through the "cost approach" or "income approach" if sufficient comparable sales are available to justify a valuation estimate solely on the basis of the "market data approach." This provision should also produce measurable cost savings for agencies.

Section 25.103(f) would prohibit anyone from serving as the agency's appraiser of a property in which the person has a direct or indirect interest that would in any way conflict with his or her performance of the appraisal. No agency appraiser may represent the agency or the owner in the negotiation of the acquisition price to be paid for the property.

Donations

Section 25.103 permits an agency to accept a donation of real property after informing the owner of his or her right to receive just compensation. If the owner wished to be informed of the value of the property, based on an appraisal, the agency would be required to comply before it could proceed with the acquisition.

Comparable Replacement Dwelling

Section 25.10(c) would require that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling. This means that, while the replacement dwelling need not be identical to the displacement dwelling in terms of the amenities it provides, it should be generally the same in order to be comparable.

Financial Means Test

Section 205(c)(3) of the Uniform Act precludes the displacement of any person from a dwelling until at least one comparable replacement dwelling has been made available to the person. In order to assure successful relocation, Section 205(c)(3) of the Act also requires that a comparable replacement dwelling must be within a person's financial means.

Section 25.10(c)(6) sets forth a proposed test for determining whether a replacement dwelling is within a person's financial means. Since this test is one of the most significant policy issues to be resolved in establishing a model regulation, special attention is invited to this proposal.

The financial means test proposed at § 25.10(c)(6) reflects a view that the monthly housing cost of a person after displacement should not exceed the amount the person paid prior to

displacement. This view is sometimes referred to as the "make whole" standard.

Under this proposal, a replacement dwelling purchased by a 180-day homeowner would be considered to be within the homeowner's financial means if he or she was reimbursed for: (1) The entire increase, if any, between the price paid for the displacement dwelling and the purchase price of a replacement dwelling (as described at § 25.401(c)), (2) the present worth of any increased mortgage interest costs (as described at § 25.401(d)), and (3) any incidental expenses incurred in purchasing a replacement dwelling (as described at § 25.401(e)).

A replacement dwelling for a person who rents shall be considered to be within his or her financial means if the monthly rent at the replacement dwelling does not exceed the monthly rent at the displacement dwelling. Of course, if the cost of any utility services is included in either rent, an appropriate adjustment must be made to ensure that like circumstances are compared.

As described earlier, if available replacement dwellings are too costly to be within a person's financial means, the displacing agency may not require the person to move unless it provides additional assistance that will bring the cost of appropriate replacement housing within the person's financial means. Such additional assistance may be provided through implementation of the last resort housing provisions at Subpart G of this rule.

Initiation of Negotiations

Unless otherwise specified by regulation, the term "initiation of negotiations" (defined at § 25.10(j)) means the delivery of the initial written offer by the agency to the owner of real property to purchase the property for the amount determined to be just compensation. The "initiation of negotiations" is a very significant action because it triggers relocation eligibility for the occupants of the property. Therefore, to ensure fair treatment of those affected, the "initiation of negotiations" for a person who moves after the agency issues its notice of intent to acquire the real property, but before it delivers the initial purchase offer, has been defined to be the person's actual move from the property.

Relocation Analysis

Section 25.202 requires the agency to develop a "relocation analysis." Relocation analysis refers to the process by which the displacing agency identifies a project's anticipated relocation needs (for replacement housing, relocation payments, assistance to displaced persons) and develops a program to satisfy those needs. This process is not intended to be an additional requirement for displacing agencies, but it is viewed as a necessary part of an effective system of good project management. Federal funding agencies will not review an agency's relocation analysis as a prerequisite to approving a project. However, the relocation analysis should be in sufficient depth to assure that comparable replacement dwellings will be available to all displaced persons. This analysis would provide the data on which the displacing agency's assurances of compliance are based.

Notice of Relocation Eligibility

The notice of relocation eligibility described at § 25.203 serves two distinct functions. First, it informs particular persons that they will be displaced by a Federal or Federally-assisted project. Second, it provides those persons with information about their rights and the assistance available to them in connection with their displacement as well as about the conditions they must satisfy in order to receive that assistance. This notice is not a notice to vacate by a designated date, however, after the initiation of negotiations, persons who have received a notice of relocation eligibility are eligible for relocation assistance as specified under this Part.

Availability of Comparable Replacement Dwellings Before Displacement

Section 25.204 of the proposed rule implements the requirement at section 205(c)(3) of the Uniform Act that no person shall be required to move permanently from his or her dwelling, unless at least one comparable replacement dwelling has been made available to the person. Whenever possible, a reasonable choice of comparable replacement dwellings shall be offered to the person.

This requirement implements the most basic principle of the Uniform Act. It can be waived only under certain emergency conditions. Reasonable safeguards to ensure appropriate assistance to any person required to make an emergency move are set forth at §25.204(c).

Relocation Assistance Advisory Services

Section 25.205 explains the services a displacing agency must make available to assist persons displaced by a Federal or Federally-assisted project. Relocation assistance advisory services are often crucial to a successful move. Displacing agencies are expected to provide those services which are necessary to accomplish that end. This includes services directly related to the move (e.g., housing referrals or transportation assistance) and less directly related services such as social service referrals.

One of the services a displacing agency must provide is inspection of the replacement dwelling. It is perferable that the inspection be done before the displaced person visits the dwelling, especially when the agency has referred the displaced person to the dwelling. However, this sometimes is not possible. In those instances, a displaced person might choose a replacement dwelling which was not decent, safe, and sanitary and, therefore, inadvertently lose his eligibility for a replacement housing payment. To avoid this outcome, a displacing agency must remain in close contact with persons it expects to displace and must inform those persons that they cannot receive a replacement housing payment unless their replacement dwelling is decent, safe, and sanitary.

Ninety-Day Notice

The requirement for a 90-day notice (see § 25.206) is frequently misunderstood. Even though this notice often is combined with a notice to vacate, a 90-day notice is not itself a notice to vacate. On the contrary, it protects persons who are expected to be displaced by assuring them that the earliest date by which they might have to move is at least 90 days away.

Section 25.206 provides additional protections to persons to be displaced. For example, the 90-day notice may not be issued by the agency until these persons have received a notice of relocation eligibility providing information about their rights, benefits, and responsibilities under this Part. Most importantly, the 90-day notice may not be issued until the displacing agency has made available to each person expected to be displaced at least one comparable replacement dwelling. Thus, no one will receive a 90-day notice unless a comparable replacement dwelling is available to the person and he or she has 90 days to find an alternate replacement dwelling.

Relocation Payments Not Considered as Income

Relocation payments under the Act either provide compensation for costs imposed on persons by a Federal or Federally-assisted project or assist such persons to relocate to decent, safe, and sanitary housing. For this reason, as described at § 25.209, relocation

payments shall not be considered as income for the purpose of other Federal law. Thus, Federal, State, or local governments may not count such payments when making eligibility determinations concerning Social Security, welfare payments, food stamps, or any other Federal law. Similarly, relocation payments are not considered as income under the Internal Revenue Code.

Moving and Related Expenses

Sections 25.301 and 25.303 describe the moving and related expenses for which a person is entitled to reimbursement if the person elects to submit a claim for the actual cost of his or her move. As an alternative certain persons may choose to submit a claim for a fixed payment under § 25.302 and § 25.304 rather than a claim for actual reasonable expenses.

Attention is invited to two policies which have in the past been a source of Federal agency differences in the interpretation of the Uniform Act. One of these policies is set forth at § 25.303(a)(11) and is sometimes referred to as the "substitute equipment" rule. Under this policy a person owning a business may choose not to relocate an item of personal property, but rather replace it at the replacement site with a substitute item that performs a comparable function, and be compensated accordingly. In such a case, compensation will be based on the cost of the substitute item, minus any proceeds from the sale of the replaced item. However, in no case may the person be paid an amount greater than it would have cost to move and reinstall the replaced item.

The second moving expense policy to which attention is invited has often been referred to as the "physical change" rule. Under that policy a displacing agency was sometimes required to reimburse a business for the cost of adding space or restructuring available space at the replacement location of the business in order to accommodate machinery and equipment to be moved from the displacement location. Under the proposed rule, a business would not be eligible for reimbursement of such expenses.

Section 25.303(a)(12) describes those expenses incurred by a businessperson in searching for a replacement location which may be reimbursed by the agency. Federal agencies currently limit these payments to $500. The proposed rule would raise this limit to $1,000 per displacement in order to reflect the increased cost of hotel/motel accommodations, transportation, food, and other items.

Section 25.304 contains requirements for fixed moving expense payments for businesses and farm operations. These payments may be made in place of payments for actual expenses, but they involve special requirements. One of these requirements is that a business or nonprofit organization must suffer a substantial loss of its existing patronage. The term "existing patronage" often is a source of confusion. For purposes of these regulations, it means the actual, specific clientele of a business or a nonprofit organization. If a substantial number of the clientele is unlikely to patronize the business or nonprofit organization at the new location, the requirement is met—without regard to whether new clients will replace them. Businesses and nonprofit organizations are assumed to meet this requirement unless the agency demonstrates otherwise.

Replacement Housing Payments for 180-day Homeowners

Section 25.401(a) clarifies he occupancy requirement for 180-day homeowners. In order to be eligible for a replacement housing payment for 180-day homeowner-occupants, a displaced person must have occupied a displacement dwelling for the 180 days immediately before the initiation of negotiations. While most Federal displacing agencies have followed this policy, their regulations often did not explicitly state that the occupancy period had to be the 180 days immediately preceding the initiation of negotiations.

If a displaced person does not meet the occupancy requirement explained above solely due to circumstances such as a hospital stay, military reserve duty, or other temporary absence from his dwelling, he shall be considered to be in "constructive occupancy" of his dwelling and, therefore, to meet the 180-day requirement.

Rental Assistance Payments

Section 25.402(b) describes the method for computing rental assistance payments under Section 204(1) of the Uniform Act. The formula is designed to provide a person with the cash assistance that will enable him or her to afford to pay the rent and utility costs at a replacement dwelling for a 4-year period. The level of cash assistance needed each month would be the greater of the following amounts:

(1) The amount obtained by substracting the monthly housing cost at the displacement dwelling from the monthly housing cost at a replacement dwelling.

(2) The amount obtained by subtracting 30 percent of the person's income from the monthly housing cost at a replacement dwelling.

Thus, a tenant who is paying less than 30 percent of his or her gross income for rent and utilities at the displacement dwelling would receive a payment based on the difference between the monthly cost for rent and utilities at the displacement dwelling and the monthly cost for rent and estimated utility charges at a replacement dwelling.

For a tenant who is paying more than 30 percent of his or her gross income for rent and utilities at the displacement dwelling, the payment would be based on the difference between 30 percent of his or her gross monthly income and the monthly cost for rent and estimated utility charges at a replacement dwelling. This aspect of the formula assures a reasonable level of assistance to low and moderate income persons who have been paying a disproportionately large share of their income for rent and utilities at their displacement dwellings.

Under the formula, the person's monthly level of need is multiplied by 48 and that amount, or $4,000, whichever is less, is paid to the person in a lump sum, unless the agency determines that the payment should be made in installments. (A determination to make a payment in installments may only be made on a case-by-case basis for good cause.)

The formula for computing rental assistance payments is a very significant feature of the proposed rule. At present most rental assistance payments are computed under a formula similar to the one at § 25.402(b) of the proposed rule (although monthly housing cost is now compared with 25 percent of the displaced person's income, rather than 30 percent). It has been suggested, however, that the payment formula should be simplified by excluding any consideration of the person's income (i.e., basing payments solely on the "make whole" standard). Another proposal would retain the basic formula at § 25.402(b) but exclude consideration of utility costs. Since either of these alternatives would be a significant change, reader comments as to the most appropriate payment formula is encouraged.

Additional Rules Governing Replacement Housing Payments

Section 25.403(a)(1) indicates that a displacing agency may adjust the asking price of a comparable replacement dwelling for purposes of determining the probable selling price, to be used in

determining the amount of a replacement housing payment. In many cases, the asking price does not reflect the market value of a dwelling, but rather represents the seller's bargaining position for purposes of negotiation. When this is the case, the agency may make an adjustment if it determines that such action is appropriate. The agency shall document the basis for these determinations.

Section 25.403(a)(2) states "If the site of the comparable replacement dwelling lacks a major attribute of the displacement dwelling site * * * the value of such attribute shall be subtracted from the purchase price of the displacement dwelling for purposes of computing the payment." Since the major component of the replacement housing payment is determined by the difference between the prices of a replacement dwelling and the displacement dwelling, it is important that the agency compare like dwellings. Subtracting the value of major displacement dwelling attributes which a comparable replacement dwelling lacks is designed to make the dwellings as "alike" as possible.

Mobile Homes

Subpart F sets forth requirements governing the provision of moving expenses and replacement housing payments for a person displaced from a mobile home or a moble home site. Eligibility for a replacement housing payment is based on the length of time a person owned or rented the mobile home and occupied it on the displacement site.

The present rules of Federal agencies differ as to the policies to be applied when a displaced mobile home occupant owned the displacement mobile home but rented the displacement site, or rented the displacement mobile home but owned the displacement site. Differences also arise with respect to a displaced person who purchases a replacement mobile home but rents the replacement site, or rents a replacement mobile home but purchases the site. Under the proposed rule such a person would be eligible to receive a replacement housing payment that combines a payment for the mobile home with a payment for the mobile home site. Each such payment would be computed under the applicable section(s) § 25.401 and/or § 25.402). However, the total replacement housing payment to a person would not exceed the maximum payment (either $15,000 or $4,000) permitted under the section that governs the computation for the dwelling.

For example, if a person rented the displacement mobile home and occupied it on a site he or she owned for more than 180 days prior to the initiation of negotiations and, after displacement, the person rented a replacement mobile home on a site which he or she purchased, the person may be eligible for a rental assistance payment computed under § 25.402(b) to help rent the mobile home and a 180-day homeowner payment computed under § 25.401 to help purchase the replacement mobile home site. However, the maximum total replacement housing payment in this case would be $4,000, since the person rented the replacement mobile home and $4,000 is the ceiling on rental assistance payments.

The proposed rule at Subpart F would provide fair, equitable, and uniform relocation assistance to all eligible displaced mobile home occupants.

Last Resort Housing

Subpart G sets forth policies and procedures that maximize the flexibility of displacing agencies seeking to provide housing of last resort (Section 206 of the Uniform Act).

To provide displacing agencies with full authority to design and implement last resort housing measures according to their own needs, Subpart G would remove all unnecessary existing requirements.

It would remove the present requirement that an agency must, in every case where it contemplates the possible need for last resort housing, conduct an inventory of housing in the locality, analyze the housing inventory data, and prepare a lengthy replacement housing plan.

The proposed rule would also eliminate the requirement that a displacing agency must establish an advisory committee to consult with, advise, and assist the displacing agency in its development of a replacement housing plan in any case where 26 or more units of last resort replacement housing are needed.

In addition, the proposed rule would remove the explicit direction that a replacement housing plan under the last resort housing procedure must be submitted for review to HUD or the Farmers Home Administration (FmHA) and must be submitted to the Regional and State Clearinghouses.

Regulations Affected

It is anticipated that existing Uniform Act Government-wide regulations, including the General Services Administration guidelines at 41 CFR Part 101-6, as well as the Department of Housing and Urban Development Government-wide regulation at 24 CFR Part 43 (issued and made applicable Government-wide pursuant to a January 4, 1971, Presidential memorandum, and concerning last resort housing and seed money loans) those of the following Federal agencies will be reviewed and analyzed in the context of these DOT model regulations.

7 CFR Part 21 (Department of Agriculture)
24 CFR Part 15 (Department of Education)
45 CFR Part 15 (Department of Health and Human Services)
24 CFR Part 42 (Department of Housing and Urban Development)
41 CFR Part 114-50 (Department of Interior)
41 CFR Part 128-18.5001 *et seq.* (Department of Justice)
29 CFR Part 12 (Department of Labor)
49 CFR Part 25 (Department of Transportation)
32 CFR Part 641 (Department of Army)
32 CFR Part 742 (Department of Navy)
7 CFR Part 652 (Soil Conservation Service)
13 CFR Part 310 (Economic Development Administration)
15 CFR Part 916 (National Oceanic and Atmospheric Administration)
23 CFR Part 712 and 740 (Federal Highway Administration)
40 CFR Part 4 (Environmental Protection Agency)
41 CFR Part 101-18 (General Services Administration)
38 CFR Part 25 (Veterans Administration)
39 CFR Part 777 (Postal Service)
18 CFR Part 1306 (Tennessee Valley Authority)
36 CFR Part 904 (Pennsylvania Avenue Development Corporation)

Regulatory Evaluation

Initially the adoption of this proposed rule would result in relatively insignificant costs and benefits since it would only involve the revision of DOT's existing relocation regulation. However, after the proposed regulation is adopted by other affected Federal agencies, there would be significant benefits to State and local governments that undertake Federally-assisted projects since they would no longer have to follow differing Federal regulations in implementing the Uniform Act. The only cost that affected State and local governments would incur would be the slight cost of adjusting their operating procedures to comply with a single Federal regulation that would apply on all Federally-assisted projects.

The benefits to State and local governments would result from the anticipated simplification of the Federal regulatory scheme and the consequent reductions in administrative costs. It has not been possible to accurately estimate the total cost savings that this will produce for the many affected State and local governmental agencies, however, representative agencies and organizations of affected agencies have clearly indicated that adoption of a single Federal regulation would result in some reduction in their administrative costs.

The Department has determined that this NPRM does not constitute a major rule under the criteria of Executive Order 12291. It will have no significant economic impacts. It will merely simplify and clarify current Department of Transportation regulations that implement the Uniform Act, and will eventually, when adopted by other agencies operating under the Uniform Act, reduce administrative costs and burdens on State and local governmental agencies that must comply with the Uniform Act on Federally assisted projects.

Under the criteria of the Regulatory Flexibility Act, it is certified that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities, since there will be no significant effect on the relocation benefits provided to businesses, as the provisions of the Uniform Act which require those benefits have not been changed, and the economic impact on State and local agencies that are subject to the Uniform Act is not expected to be significant. The primary impact on such agencies would be the eventual elimination of current administrative burdens caused by differing or conflicting Federal regulations that implement the Uniform Act. As Federal agencies eliminate separate regulations implementing the Uniform Act and adopt a single Government-wide, such burdens will be reduced.

It does not impose information collection or reporting requirements beyond those contained in the current regulation. It is not considered a significant rule under the Department's Regulatory Policies and Procedures. Comments are specifically requested on the impact of this proposed rule on small entities and on the estimated costs of the proposed regulation.

List of Subparts in 49 CFR Part 25

Transportation, Relocation and real property acquisition.

Issued at Washington, D.C., on April 8, 1983.

Elizabeth Hanford Dole,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department of Transportation proposes to amend Part 25 of Title 49, Code of Federal Regulations to read as follows:

PART 25—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

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Authority—Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601).

Subpart A—General

§ 25.1 Purpose.

The purpose of these regulations is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et. seq.), in accordance with the following objectives—

(a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs; and

(b) To ensure that persons displaced as a result of federal or Federally-assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.

§ 25.2 No duplication of payments.

No person shall receive any compensation under these regulations that would have substantially the same purpose or effect as compensation which the person receives under the State law of eminent domain and which is part of the cost of the project.

§ 25.3 Assurances, monitoring and corrective action

(a) *General.* Before a Federal agency may approve any grant to, or contract or

agreement with, a State agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, it must obtain appropriate assurances from the State agency that it will comply with the Uniform Act. The Federal agency will monitor compliance with these regulations and the State agency shall take whatever corrective action is necessary to comply with these regulations. The Federal agency may also apply sanctions in accordance with applicable program regulations.

(b) *Prevention of Fraud, Waste, and Mismanagement.* The Agency shall take appropriate measures to carry out these regulations in a manner that minimizes fraud, waste, and mismanagement. For example, to the extent practicable, functions shall be separated to ensure that the same person does not compute, approve, and deliver a payment to a claimant.

§ 25.4 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under these regulations shall be personally served and documented in Agency files or sent by certified or registered first-class mail, return receipt requested. Each notice shall be written in plain understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

§ 25.5 Administration of jointly funded projects.

Whenever two or more Federal agencies provide financial assistance to an Agency or Agencies to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person, the heads of the Federal agencies may by agreement designate one such agency as the cognizant Federal agency, for the purpose of implementing the Uniform Act. At a minimum, the agreement shall set forth the federally-assisted activities which are subject to its terms and cite any policies and procedures, in addition to these regulations, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal agency shall assure compliance with the provisions of the Uniform Act and these regulations for the project. All assisted activities under the agreement shall be deemed a project for the purposes of these regulations.

§ 25.6 Federal agency waiver of regulations.

The Federal agency financing the project may waive any provision in this part that is not required by law when it is determined that the waiver does not reduce any assistance or protections available to an owner or displaced person under this part. A request for a waiver shall be justified on a case-by-case basis.

§ 25.7 Compliance with other laws and regulations.

The implementation of these regulations shall be in compliance with the following, including any implementing regulations—

(a) Section I of the Civil Rights Act of 1966 (42 U.S.C. 1982 et seq.).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.).

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347).

(e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.).

(f) Executive Order 12250—Leadership and Coordination of Non-Discrimination Laws.

(g) Executive Order 11063—Equal Opportunity and Housing.

(h) Executive Order 11246—Equal Employment Opportunity.

(i) Executive Order 11625—Minority Business Enterprise.

§ 25.8 Recordkeeping and reports.

(a) *Records.* The Agency shall maintain a separate file for each acquisition of real property and each person displaced. These records shall be sufficient to demonstrate compliance with these regulations and shall be retained for at least three years after each owner of the property and each person displaced from the property have received the final payment to which they are entitled under these regulations.

(b) *Confidentiality of Records.* Records maintained by an Agency in accordance with these regulations are confidential and are not to be treated as public information, unless applicable law provides otherwise.

(c) *Reports.* The Agency may be required to submit periodic reports of its real property acquisition and displacement activities under these regulations to the appropriate Federal agency.

§ 25.9 Appeals.

(a) *General.* The Agency shall establish a process for the prompt review of appeals in accordance with the requirements of applicable law and these regulations.

(b) *Actions which may be appealed.* A person may file an appeal with the Agency in any case in which the person believes that the Agency has—(1) Failed to properly determine the person's eligibility for, or the amount of, a payment required under § 25.106 or § 25.107 or a relocation payment required under these regulations. A person may also appeal the refusal of the Agency to waive the time limit for filing a claim or the one-year purchase and occupancy requirement at § 25.402(a)(3); or (2) Failed to provide the person a reasonable opportunity to relocate to a comparable replacement dwelling or to properly inspect the replacement dwelling.

(c) *Time limit for initiating appeal.* The Agency may set a reasonable time limit for a person to file an appeal. For an appeal under paragraph (b)(1) of this section, the time limit shall be not less than 180 days after the person receives notification of the Agency's determination on the person's claim or its refusal to waive the applicable time limit. For an appeal under paragraph (b)(2) of this section, the time limit shall not be less than 180 days after the date of displacement.

(d) *Right to representation.* A person has a right to be represented by legal counsel and to be accompanied by an advisor, attorney or other representative in any personal appearance in connection with his or her appeal, but solely at the person's own expense.

(e) *Review of files by person making appeal.* The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are confidential. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) *Construction of rules and regulations.* In deciding appeals, it is intended that applicable rules and regulations be applied in a manner that best fulfills the objective of providing "fair and equitable treatment" so that displaced persons do "not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole."

(g) *Oral appeal.* If a person asks to make an oral appeal, the person shall be given the opportunity to present the appeal orally to an appropriate Agency official within 15 days from the date of

his request. The Agency shall prepare a summary of the matters discussed in the oral presentation and include it as part of its case file. If the Agency does not grant the full relief requested by the person, it shall so notify the person promptly in writing and state that the person has a right to file a written appeal.

(h) *Written appeal.* A person may file a written appeal to the Agency, whether or not he or she has made a prior oral appeal. The written appeal shall be considered by the Agency, regardless of form.

(i) *Scope of review of appeal.* In deciding an appeal, the Agency shall consider—

(1) All applicable regulations;

(2) All pertinent justification and other material submitted by the person; and

(3) All material upon which the Agency based the determination being appealed and any other available information that is needed to ensure a fair and full review of the appeal.

(j) *Request for additional time.* If, after filing an appeal, a person makes a reasonable request for additional time to gather and prepare information for a supplemental written appeal, the person must be granted a reasonable amount of additional time.

(k) *Determination and notification after appeal.* Promptly after receipt of all information submitted by a person in support of the appeal, the Agency shall make a written determination on the appeal and furnish the person a copy. If any payment or other relief to the person is granted, the notification shall include a brief statement on how this will be provided. If the full relief requested is not granted, the notification shall include the factual and legal basis upon which the decision is based, including any appropriate explanation, along with a statement of the person's right to seek judicial review.

(l) *Assistance to person making appeal.* If a person is unable to prepare a written appeal, the Agency shall offer the person appropriate assistance or notify him or her of other available sources of assistance.

(m) *Agency official to hear appeal.* The Agency official hearing an oral appeal or conducting the review of a written appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not be an official directly involved in the action appealed or a subordinate to such an official.

(n) *Judicial review.* Nothing in these regulations shall in any way preclude or limit a person from seeking judicial review of his or her appeal on its merits after exhaustion of such administrative remedies as are available to the person under this Section.

(o) *Federally-assisted State administered programs.* Whenever a project is carried out by an Agency provided Federal financial assistance under a program administered by a State, the State may establish the procedures governing appeals. These procedures may provide for the Agency to hear the appeal and, if the person is dissatisfied with the Agency's determination on the appeal, for the State to review the appeal.

§ 25.10 Definitions.

(a) *Agency.* The term "Agency" means the Federal agency, State or State agency which acquires the real property (see § 25.101) or displaces a person (see § 25.10(e)).

(b) *Business.* The term "business" means any lawful activity, except a farm operation, that is—

(1) Conducted primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Conducted primarily for the sale of services to the public; or

(3) a Solely for the purpose of § 25.303 of these regulations, conducted primarily for outdoor advertising display purposes, when the display(s) must be moved as a result of the project; or

(4) Conducted by a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(c) *Comparable replacement dwelling.* The term "comparable replacement dwelling" means a dwelling which meets or exceeds the following minimum requirements—

(1) Decent, safe, and sanitary as described in § 25.10(d).

(2) Functionally equivalent to the displacement dwelling with living space adequate to accommodate the displaced person.

(3) In an area that is not subject to unreasonable adverse environmental conditions; is not generally less desirable than the location of the displaced person's dwelling with respect to public utilities, commercial and public facilities; and is reasonably accessible to the person's place of employment.

(4) On a site that is typical in size for residential development with normal site improvements including customary landscaping, but not including special improvements such as outbuildings, fences, swimming pools, and greenhouses. (See also § 25.403(a)(2).)

(5) Currently available to the displaced person.

(6) Within the financial means of the displaced person.

(i) A replacement dwelling purchased by a 180-day homeowner is considered to be within the homeowner's financial means if the homeowner is paid the full price differential as described at § 25.401(c), all increased mortgage interest cost as described at § 25.401(d), and all incidental expenses as described at §25.401(e).

(ii) A replacement dwelling rented by a displaced person is considered to be within his or her financial means if the monthly rent at the replacement dwelling does not exceed the monthly rent at the displacement dwelling, after taking into account any rental assistance which the person receives under these regulations. If the cost of any utility services is included in either rent, an appropriate adjustment must be made to ensure that like circumstances are compared. For a person who paid little or no rent before displacement, the market rent of the displacement dwelling shall be used when computing costs.

(d) *Decent, safe, and sanitary dwelling.* The term "decent, safe, and sanitary dwelling" means a dwelling which meets applicable housing and occupancy codes. However, if any of the following standards are not met by an applicable code, such following standard shall apply, unless waived for good cause by the Federal agency funding the project. The dwelling shall—

(1) Be structurally sound, weathertight and in good repair.

(2) Contain a safe electrical wiring system adequate for lighting and other electrical devices.

(3) Contain a heating system capable of sustaining a healthful temperature for a displaced person of approximately 70 degrees, except in those areas where local climatic conditions do not require such a system.

(4) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink and bathtub or shower stall and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

(5) Contains unobstructed egress to safe open space at ground level. If the replacement dwelling unit is on the second story or above, two unobstructed means of egress are required.

(6) For a displaced person who is handicapped, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by the person.

(e) *Displaced person.* (1) *General.* The term "displaced person" means any person (defined at § 25.19(k)) who moves from the real property or moves his personal property from the real property—

(i) As a result of the Agency's acquisition of such real property in whole or in part for the project. (This includes any person who moved from the real property as a result of the initiation of negotiations as described at § 25.10(j)); or

(ii) As a result of the written order from the acquiring Agency to vacate such real property for the project; or

(iii) As a result of the Agency's acquisition of, or written order to vacate other real property on which the person conducts a business, farm operation, or nonprofit organization, for the project. However, eligibility as a displaced person under this paragraph (1)(iii) applies only for purposes of obtaining relocation assistance advisory services (described at § 25.205) and moving expenses under § 25.303).

(2) *Persons not displaced.* The following is a nonexclusive listing of persons who do not qualify as a displaced person under these regulations.

(i) A person who moves before the initiation of negotiations; or

(ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

(iii) A person who is not required to relocate permanently as a direct result of the project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal agency providing financial assistance for the project; or

(iv) A person who, after receiving a notice of relocation eligibility (described at § 25.203) is notified in writing that he or she will not be displaced for the project. Such notice shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or

(v) An owner-occupant who voluntarily sells his or her property as described at § 25.101(a)) after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to these regulations; or

(vi) A person who retains use and occupancy of the real property for life following its acquisition by the Agency; or

(vii) A person who retains use and occupancy of the real property for a fixed term after its acquisition by the Department of Interior under Pub. L. 93–447 or Pub. L. 93–303; or

(viii) A person who is required to temporarily vacate the premises in order to permit fumigation or other code enforcement work which does not exceed five calendar days.

(f) *Dwelling.* The term "dwelling" means the place of permanent or customary and usual residence of a person according to local custom or law, including a single family house, a single family unit in a two-family, multi-family, or multi-purpose property, a unit of a condominium or cooperative housing project, a non-housekeeping unit, a mobile home, or any other residential unit.

(g) *Farm operation.* The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(h) *Federal agency.* The term "Federal Agency" means any department, agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, and the Architect of the Capitol, the Federal Reserve Bank and branches thereof.

(i) *Federal financial assistance.* The term "Federal financial assistance" means any Federal grant, loan, or contribution, except a Federal guarantee or insurance.

(j) *Initiation of negotiations.* The term "initiation of negotiations" means the delivery of the initial written offer by the Agency to the owner or the owner's representative to purchase real property for the project for the amount determined to be just compensation, unless applicable Federal program regulations specify a different action to serve this purpose. However, in any case where a person moves after the Agency issues a notice of its intent to acquire the real property, but before delivery of the intitial written purchase offer, the "initiation of negotiations" means the person's move from the property.

(k) *Person.* The term "person" means any individual, family, partnership, corporation, or association.

(l) *Salvage value.* The term "salvage value" means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

(m) *State.* The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the trust territories of the Pacific Islands, or a political subdivision of any of these jurisdictions.

(n) *State agency.* The term "State agency" means any department, agency or instrumentality of a State, or of a political subdivision of a State, or of two or more States, or of two or more political subdivisions of a State or States.

(o) *Tenant.* The term "tenant" means a person who has the temporary use and occupancy of real property owned by another.

(p) *Unform Act.* The term "Uniform Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(84 Stat. 1894; 42 U.S.C 4601 et seq.; Pub. L. 91–646).

Subpart B—Real Property Acquisition

§ 25.101 Applicability of acquisition requirements.

(a) *General.* The requirements of this Subpart apply to any Agency acquisition of real property (including any less-than-full-fee interest) for a Federal or federally-assisted project carried out under the threat of eminent domain. In those instances where the Agency has authority to acquire property free of the threat of eminent domain, the requirements outlined in this Subpart will not apply if the owner is informed in advance that the transaction must be on a voluntary basis and that if a mutually satisfactory agreement cannot be reached, the Agency will not acquire the property.

(b) *Less-than-full-fee interest in real property.* The requirements of this Subpart apply to acquisition of a life estate, or life use, acquisition by

leasing/easement where the lease/easement term, including option(s) for extension, is 50 years or more, and to any other acquisition for a project of a less-than-full-fee interest including easements.

(c) *Federal-assisted projects.* For federally-assisted projects the provisions of §§ 25.102, 25.103, 25.104, and 25.105 are applicable to the extent practicable under State law.

§ 25.102 Basic acquisition policies.

(a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Notice to owner.* As soon as feasible, the owner shall be notified in writing of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and these regulations (see also 90-day notice requirement at § 25.206).

(c) *Appraisal and invitation to owner.* Before the initiation of negotiations the real property shall be appraised and the owner or the owner's designated representative shall be given an opportunity to accompany the appraiser during the appraiser's inspection of property.

(d) *Establishment of offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value, including damages or benefits to the remaining property (see also § 25.104). Promptly thereafter the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. (In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages to the remaining real property shall be separately stated.)

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. (Where appropriate, the statement shall identify any separately held ownership interest in the property (e.g., a tenant-owned improvement) and indicate that such interest is not covered by the offer.)

(f) *Basic negotiation procedures.* The Agency shall make reasonable efforts to contact the owner or the owner's representative and (1) discuss its offer to purchase the property including the basis for the offer of just compensation, and (2) explain its acquisition policies and procedures including its payment of incidental expenses in accordance with § 25.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase, and the Agency shall consider the owner's presentation.

(g) *Updating offer of just compensation.* If the information presented by the owner or a material change in the character or condition of the property indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) *Coercive action.* The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action, in order to induce an agreement on the price to be paid for the property.

(i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate on that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. A written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, and valuation problems) support such a settlement.

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall (1) pay the agreed purchase price to the owner, or (2) in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the agencies approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for the property.

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. An uneconomic remnant is a remaining part of the property in which the owner is left with an interest that the Agency determines has little or no utility or value to the owner.

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* The amount charged a former owner or tenant for the use of the real property between the date of acquisition and the date of displacement for the project shall not exceed the fair rental value for a short-term occupier or the market rent, whichever is less.

§ 25.103 Criteria for appraisals.

(a) *Definition of appraisal.* An appraisal is a written statement independently prepared by a qualified appraiser setting forth an opinion of value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(b) *Standards of appraisal.* The format and level of documentation for an appraisal are dependent on the complexity of the appraisal problem. The Agency shall develop minimum standards for appraisals of those acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis necessary in a standard appraisal. A standard appraisal shall be prepared for all other acquisitions. A standard appraisal shall reflect nationally recognized appraisal standards including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. As a minimum, it shall contain the following items:

(1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(2) An adequate description of the physical characteristics of the property being appraised (and in the case of a partial acquisition, an adequate

description of the remaining property), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and a 5-year sales history of the property.

(3) All relevant approaches to value. However, when there is sufficient market data, the appraisal may be limited to the market approach. If more than one approach is utilized, there shall be an analysis and correlation of the approaches to value including an explanation of the final conclusion of value that is sufficient to support the appraiser's opinion(s) of value.

(4) A description of comparable sales, including a description of any items that affect the validity of the sale or indicated value such as parties to the transaction and source and method of buyer financing.

(5) A breakdown of land and improvement values and, for a partial acquisition, a statement of the value of the real property to be acquired and of damages and benefits, if any, to the remaining real property.

(6) The effective date of valuation, date of appraisal, signature, and certificate of appraiser.

(c) *Influence of projects on just compensation.* To the extent permitted by applicable law, the appraiser shall disregard any decrease or increase in the fair market value of the real property, prior to the date of valuation, caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

(d) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount determined to be just compensation for the interest in real property to be acquired from the owner shall not be less than the amount determined by subtracting the salvage value of the improvements the owner retains for off-site removal from the amount determined to be just compensation for the owner's entire interest in the real property.

(e) *Qualifications of appraisers.* The Agency shall establish criteria for determining the minimum qualifications of appraisers, including review appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The Agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

(f) *Conflict of interest.* No appraiser shall have any interest, direct or indirect, in the real property which is being appraised for the Agency that would in any way conflict with the preparation of the appraisal. No Agency appraiser shall act as a negotiator for the Agency or the owner in the acquisition of real property which the appraiser has appraised in connection with the project. Compensation for making an appraisal shall not be based on the amount of the valuation.

§ 25.104 Review of appraisals.

The Agency shall have an appraisal review process and, as a minimum:

(a) A qualified reviewing appraiser shall examine all appraisals to assure that they meet Agency appraisal requirements and shall, prior to acceptance, seek correction or revision of those which do not.

(b) If the reviewing appraiser is unable to approve or recommend approval of an appraisal as adequate support for compensation, the reviewing appraiser may develop appraisal documentation in accordance with § 25.103 to support an approved or recommended value if it is determined that it is not practical to obtain additional appraisals.

(c) The review appraiser's recommended or approved value of the property shall be set forth in a signed written report which identifies the appraisal reports reviewed and explains the basis for such recommendation. Any damages or benefits to any remaining property shall also be identified in the report.

§ 25.105 Acquisition of tenant-owned improvement.

(a) *Acquisition of improvements.* When acquiring any interest in real property, the Agency shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) *Improvements considered to be real property.* Any building, structure, or other improvement which would be considered to be real property if owned by the owner of the real property on which it is located shall be considered to be a real property improvement for purposes of this Subpart.

(c) *Appraisal and establishment of just compensation for tenant-owned improvements.* Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (Salvage value is defined at § 25.10(1)).

(d) *Special conditions.* No payment shall be made to a tenant-owner for any real property improvement unless—

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement;

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) *Alternative payment.* Nothing in this Subpart shall be construed to deprive the tenant-owner of any rights to reject payment under this Subpart and to obtain payment for such property interests in accordance with other applicable law.

§ 25.106 Expenses incidental to transfer of title to the Agency.

The owner shall be reimbursed for all reasonable expenses the owner necessarily incurred for—

(a) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property;

(b) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(c) The pro rata portion of any prepaid real property taxes, which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

Whenever feasible, the Agency shall pay these costs directly and avoid the need for an owner to pay any such costs and then seek reimbursement from the Agency.

§ 25.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal and engineering fees, which the owner actually incurred because of a condemnation proceeding, if—

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation; or

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

§ 25.108 Donations.

Nothing in these regulations shall prevent a person, after being informed of the right to receive just compensation, from making a gift or donation of real property or any part thereof, or any interest therein, or of any compensation paid therefor, to the Agency.

Subpart C—General Relocation Requirements

§ 25.201 Purpose and applicability.

This Subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance under the regulations in this part. These requirements apply to the relocation of any displaced person as defined at § 25.10(e).

§ 25.202 Relocation analysis.

At an early stage in the planning of a project, and in any event prior to commencing any actions which will cause displacements, a relocation analysis shall be developed by the Agency to assist it in the recognition and successful resolution of those problems associated with the displacement of individuals, families, and businesses in order to minimize adverse impacts on displaced persons and to expedite project advancement and completion. This analysis will not be subject to prior Federal approval, but it must be documented in the Agency's file and be in sufficient depth to assure that comparable replacement dwellings will be available to displaced persons.

§ 25.203 Notice of relocation eligibility.

As soon as feasible, a written notice of relocation eligibility and/or informational brochure shall be issued to each person to be displaced (see definition of displaced person at § 25.10(e)). Eligibility shall begin on the date of the initiation of negotiations. The notice and/or an informational brochure shall—

(a) Inform the person that he or she will be displaced for the project and generally describe the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(b) Indicate that the person will be given reasonable relocation advisory services, including housing referrals, help in filing payment claim(s), and other necessary assistance to help the person successfully relocate.

(c) Inform any person to be displaced from a dwelling that he/she cannot be required to move permanently, unless at least one comparable replacement dwelling has been made available to the displaced person.

(d) Describe the person's right to appeal the Agency's determination as to eligibility for, or the amount of, any relocation payment for which the person is eligible and the suitability of any replacement housing which has been offered.

§ 25.204 Availability of comparable replacement dwellings prior to displacement.

(a) *General.* No person to be displaced shall be required to move permanently from his or her dwelling, unless at least one comparable replacement dwelling (defined at § 25.10(c)) has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if—

(1) The person is informed of its location;

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition compensation to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) *Circumstances permitting waiver.* The Federal agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of—

(1) A major disaster as defined in Section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(2) A Presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) *Basic conditions of emergency move.* Whenever a person is required to relocate for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall—

(1) Take whatever steps are necessary to assure that the affected person is temporarily relocated to a decent, safe, and sanitary dwelling;

(2) Pay actual reasonable out-of-pocket moving expenses and any reasonable increases in monthly housing costs incurred in connection with the temporary relocation;

(3) As soon as feasible, make available to the displaced person at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwelling.)

§ 25.205 Relocation assistance advisory services.

(a) *General.* The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527), and offers the services described in paragraph (b) of this section. If the Agency determines that a person occupying property adjacent to the real property aquired for the project is caused substantial economic injury because of such acquisition, it may offer the services to such person.

(b) *Services to be provided.* The Advisory program shall include such measures, facilities, and servcies as may be necessary or appropriate in order to—

(1) Personally interview each person to be displaced, determine the person's relocation needs and preferences, and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance.

(2) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings. Explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in § 25.204(a).

(i) The Agency shall inform the person to be displaced of the specific comparable replacement dwelling, and the price or rent, to be used as the basis for establishing the upper limit of the replacement housing payment (see § 25.403(a)), and the basis of those determinations.

(ii) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards (see § 25.10(c) and § 25.10(d)). If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequenty inspected and determined to be decent, safe, and sanitary.

(iii) In addition to making comparable replacement dwellings available, whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable the person to relocate to a comparable replacement dwelling.

(iv) Displaced persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.

(3) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(4) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available and such other help as may be appropriate.

(5) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to persons to be displaced.

(c) *Coordination of relocation activities.* Relocation activities shall be coordinated with project work and other displacement causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and duplication of functions is minimized.

§ 25.206 Ninety-day notice.

(a) *General.* No lawful occupant shall be required to move without at least 90 day's advance written notice of the earliest date by which the property must be vacated. The 90-day notice might include a specific date by which the property must be vacated or include a statement indicating that the occupant will be given a further written notice indicating, at least 30 days in advance, the specific date by which he or she must vacate.

(b) *Timing of notice.* A 90-day notice shall not be given before the notice of relocation eligibility is issued. Also, at least one comparable replacement dwelling must be made available to a person occupying a dwelling before the person can be issued a 90-day notice.

(c) *Urgent need.* In unusual circumstances, an occupant may be required to vacate the property on less than 90 days's advance notice if the Agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to the person's health or safety. A copy of the Agency's determination shall be included in the application case file.

§ 25.207 Eviction for cause.

Eviction for cause is permissible only as a last resort and must conform to applicable State and local law. Any person who has lawfully occupied the real proprty, but who is later evicted for cause on or after the effective date of the notice of relocation eligibility, retains the right to the relocation payments and other assistance set forth in these regulations. (For example, an otherwise eligible person who is evicted for failure to pay his or her rent remains eligible for relocation assistance.) However, the date of the eviction establishes the date of the person's displacement.

§ 25.208 General requirements—claim for relocation payments.

(a) *Documentation.* Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to demonstrate expenses incurred, such as bills, certified prices, appraisals or other evidence of such expenses. A displaced person must be provided whatever assistance is necessary to complete and file any required claim for payment.

(b) *Expeditious payments.* The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) *Advance payments.* If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) *Time for filing.* All claims for a relocation payment shall be filed with the Agency within 18 months after the move is completed, unless this time period is waived by the Agency.

(e) *Multiple occupants of one displacement dwelling.* If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more persons hold separate tenancies (and/or ownerships), each such person has a separate entitlement to relocation payments.

(f) *Direct payment of claim.* The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to the Agency or any other creditor. The full amount of a relocation payment shall be made payable to the eligible claimant, unless the claimant designates in writing that a specific amount shall be paid to another party.

(g) *Notice of denial of claim.* If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

§ 25.209 Relocation payments not considered as income.

No relocation payment received by a displaced person under these regulations shall be considered as income for the purpose of the Internal Revenue Code of 1954, or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

Subpart D—Payment For Moving and Related Expenses

§ 25.301 Payment for actual reasonable moving and related expenses—residential moves.

Any displaced owner-occupant or tenant of a dwelling, who qualifies as a displaced person (defined at § 25.10(e)), is entitled to reimbursement of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for—

(a) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(b) Packing, crating, unpacking, and uncrating of the personal property.

(c) Disconnecting, dismantling, removing, reassembling and reinstalling relocated household applicances, and other personal property.

(d) Storage of the personal property, generally not to exceed 12 months, and generally not on property owned by the displaced person.

(e) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(f) The reasonable replacement value of property lost, stolen or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent or employee), where insurance covering such loss, theft or damage is not reasonably available.

(g) Other moving-related expenses that are not listed as ineligible under § 25.305, as the Agency determines to be reasonable and necessary (such as the cost of obtaining bids).

§25.302 Fixed payment for moving expenses—residential moves.

Any person displaced from a dwelling, or a seasonal residence, is entitled to receive a fixed payment in lieu of a payment for actual moving and related expenses under § 25.301, that consists of—

(a) A moving expense allowance not to exceed $300 which shall be determined in accordance with the approved Agency schedule applicable to the displacement; and

(b) A dislocation allowance of $200.

§25.303 Payment for actual reasonable moving and related expenses—nonresidential moves.

(a) *Eligible costs.* Any displaced business, or farm operation which qualifies as a displaced person (defined at § 25.10(e)), is entitled to payment for such actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for—

(1) Transportation of the personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating the personal property.

(3) Disconnecting, dismantling, removing, reassembling and installing relocated machinery, equipment, and other personal property and substitute personal property (described at § 25.303(c)). This includes connection to utilities available nearby. It also includes modifications necessary to adapt the personal property to the replacement structure or site or to the utilities or to adapt the utilities to the personal property. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

(4) Storage of the personal property, generally not to exceed 12 months, and generally not on property owned by the displaced person.

(5) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(6) Any license, permit or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit or certification.

(7) The reasonable replacement value of property lost, stolen or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent or employee), where insurance covering such loss, theft or damage is not reasonably available.

(8) Professional services necessary for (i) planning the move of the personal property, (ii) moving the personal property, or (iii) installing the relocated personal property at the replacement location.

(9) Relettering signs and replacing stationery on hand at the time of displacement that is made obsolete as a result of the move.

(10) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the reasonable costs incurred in attempting to sell the item plus the lesser of—

(i) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price); or

(ii) The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles).

(11) Purchase of substitute personal property. If an item of personal property, which is used as part of a business or farm operation, is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of—

(i) The cost of the substitute item, including installation cost at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item, based on the lowest acceptable bid or estimate obtained by the Agency for eligible moving and related expenses, but with no allowance for storage.

(12) *Searching for a replacement location.* A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed $1,000, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including—

(i) Transportation.

(ii) Meals and lodging away from home.

(iii) Time spent searching, based on reasonable salary or earnings.

(iv) Fees paid to a real estate agent or broker to locate a replacement site.

(13) Other moving-related expenses that are not listed as ineligible under § 25.305, as the Agency determines to be reasonable and necessary (such as the cost of obtaining bids).

(b) *Notification and inspection.* The following requirements apply to payments under this section.

(1) As soon as possible after the initiation of negotiations, the Agency shall inform the displaced person, in writing, of the requirements of subparagraphs (2) and (3) of this paragraph.

(2) The displaced person must provide the Agency reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(3) The displaced person must permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(c) *Self-move.* If the displaced person elects to take full responsibility for all or a part of the move of the business, farm

operation, or nonprofit organization, the Agency may approve a payment for the person's moving expenses in an amount not to exceed the lowest acceptable bid or estimate obtained by the Agency, or prepared by a qualified staff person, without submission of any additional documentation of moving expenses actually incurred in the move.

(d) *Transfer of ownership.* To be eligible for a payment under paragraph (a) or (c) of this section, the claimant shall, in accordance with applicable law, transfer to Agency ownership of the personal property that has not been sold or traded in.

(e) *Advertising sign.* The amount of payment for direct loss of an advertising sign, which is personal property, shall be the lesser of—

(1) The depreciated reproduction cost of the sign as determined by the Agency, less the proceeds from its sale; or

(2) The estimated cost of moving the sign, but with no allowance for storage.

§ 25.304 Fixed payment for moving expenses—nonresidential moves.

(a) *Business.* Any displaced business (other than an outdoor advertising display business (described at § 25.10(b)(3)) or a nonprofit organization (see § 25.304(d)) is eligible for a fixed payment in lieu of a payment for actual moving and related expenses, in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than $2,500 nor more than $10,000, if the Agency determines that—

(1) The business cannot be relocated without a substantial loss of its existing patronage (clientele). A business is assumed to meet this test, unless the Agency demonstrates that it will not suffer a substantial loss of its existing patronage;

(2) The business is not part of a commercial enterprise having another establishment, which is not being acquired by the Agency, and which is under the same ownership and engaged in the same or similar business activities. For purposes of this rule, a remaining business facility that did not contribute materially to the income of the displaced person during the two taxable years prior to displacement shall not be considered "another establishment"; and

(3) The business contributed materially to the income of the displaced person during the two taxable years prior to displacement. However, the Agency may waive this test for good cause.

(b) *Determining number of businesses acquired.* In determining whether two or more legal entities, all of which have been acquired, constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which—

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person or closely related persons own, control or manage the affairs of the entities.

(c) *Farm operation.* Any displaced farm operation (defined at §§ 25.19(g)) may choose a fixed payment in lieu of a payment for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than $2,500 nor more than $10,000. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that—

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) *Nonprofit organization.* Any displaced nonprofit organization may choose a fixed payment in lieu of a payment for actual moving and related expenses, in an amount or $2,500, if the Agency determines that it—

(1) Cannot be relocated without a substantial loss of existing patronage (membership and clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise; and

(2) Is not part of an enterprise having at least one other establishment engaged in the same or similar activity which is not being acquired by the Agency.

(e) *Average net earnings or business of farm.* The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State and local income taxes, during the two taxable years immediately prior to the taxable years in which it was displaced. If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation on the displacement site, projected to an annual rate. Also, average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statement or other reasonable evidence which the Agency determines is satisfactory.

§ 25.305 Ineligible moving and related expenses.

A displaced person is not entitled to payment for—

(a) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. (However, this rule does not preclude the computation under § 25.401(c)(4); or

(b) Interest on a loan to cover moving expenses; or

(c) Loss of goodwill; or

(d) Loss of profits; or

(e) Loss of trained employees; or

(f) Any additional expense of a business, farm or nonprofit organization incurred because of operating in a new location; or

(g) Personal injury; or

(h) Any legal legal fee or other cost for preparing a claim for a relocation payment or for representaing the claimant before the Agency; or

(i) Expenses for searching for a replacement dwelling.

Subpart E—Replacement Housing Payments

§ 25.401 Replacement housing payments for 180-day homeowner-occupants.

(a) *Eligibility.* A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person—

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of—

(i) The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the required amount is deposited in the court, or

(ii) The date the person moves from the displacement dwelling.

(b) *Amount of total payment.* The total replacement housing payment for an eligible 180-day homeowner-occupant is an amount, not to exceed $15,000, which is the combined sum of—

(1) The amount, if any, by which the cost of a replacement dwelling exceeds the acquistion price of the displacement dwelling, as determined in accordance with paragraph (c) of this section (Price differential);

(2) The amount, if any, necessary to compensate the displaced person for any increased interest costs and other debt service costs to be incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section (Increased mortgage interest costs); and

(3) The amount of the reasonable expenses, as determined in accordance with paragraph (e) of this section (Incidental expenses), that are incidental to the purchase of the replacement dwelling.

(c) *Price differential.* (1) *Determination of price differential.* The price differential to be paid under paragraph (b)(1) of this section is the amount, if any, which must be added to the acquistion price of the displacement dwelling to provide a total amount equal to the lesser of—

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with § 25.403(a).

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) *Mixed-use and multifamily properties acquired.* If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its sale price when computing the price differential.

(3) *Disaster-related insurance proceeds.* To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a disaster related loss to the displacement dwelling shall be included in the sale price of the displacement dwelling when computing the price differential.

(4) *Owner retention of displacement dwelling.* If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site (see also § 25.103(d), Owner retention of improvements), the purchase price of the replacement dwelling shall be considered to be the sum of —

(i) The moving expenses and the cost of restoration to a condition comparable to that prior to the move;

(ii) The costs, if any, incurred to make the unit a decent, safe, and sanitary replacement dwelling (defined at § 25.10(d)); and

(iii) The cost of the replacement site, not to exceed the cost of an available suitable replacement site, unless the claimant did not own the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site.

(d) *Increased mortgage interest costs.* The amount to be paid for increased mortgage interest costs under § 25.401(b) is the sum of the present value of any increase in interest costs resulting because the interest rate on the mortgage financing on the replacement dwelling exceeds that on the displacement dwelling plus other debt service costs, all computed on the basis of the following rule—

(1) The payment shall only be based on bona fide mortgages that were a valid lien on the displacement dwelling for at least 180 days prior to the intitation of negotiations. All such mortgages on the displacement dwelling shall be used to compute the payment;

(2) The payment shall be based on the unpaid mortgage balance on the displacement dwelling or the new mortgage amount, whichever is less;

(3) The payment shall be based on the remaining term of the mortgage on the displacement dwelling or the actual term of the new mortgage, whichever is shorter;

(4) The interest charge on the new mortgage shall not exceed the prevailing interest rate currently charged by mortgage lending institutions in the area in which replacement dwelling is located;

(5) The present value of the increased cost shall be computed at the prevailing interest rate paid on savings deposits by commercial banks in the area in which the replacement dwelling is located; and

(6) Purchaser's points and origination fees, but not seller's points, shall be paid to the extent (i) they are not paid as incidental expenses, (ii) they do not exceed rates normal to similar real estate transactions in the area, and (iii) the Agency determines them to be necessary. The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling or the new mortgage amount, whichever is less.

(e) *Incidental expenses.* The incidental expenses to be paid under paragraph (b)(3) of this section or § 25.402(c)(1) are those reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, including—

(1) Legal, closing, and related costs, including those for title search and insurance, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA or VA appraisal fees.

(3) FHA or VA application fee.

(4) Certification of structural soundness when required by the lender.

(5) Credit report.

(6) Owner's and mortgagee's evidence or assurance of title.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(9) Such other costs as the Agency determines to be incidental to the purchase.

§ 25.402 Replacement housing payment for 90-day occupants.

(a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $4,000 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person—

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations;

(2) Is not eligible to receive a replacement housing payment for a 180-day homeowner-occupant under § 25.401; and

(3) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within one year after—

(i) In the case of a tenant, the date he or she moves from the displacement dwelling; or

(ii) In the case of an owner-occupant, the later of—

(A) The date he or she receives final payment for the displacement dwelling, or, in the case of condemnation, the date the required amount is deposited in the court; or

(B) The date he or she moves from the displacement dwelling.

However, the Agency may extend this one-year period for good cause.

(b) *Rental assistance payment.* (1) *Amount of payment.* An eligible displaced person who rents the replacement dwelling is entitled to a payment up to, but not to exceed, $4,000 for rental assistance. Such payment shall be 48 times the amount, if any, obtained by subtracting the base monthly housing cost for the displacement dwelling, as determined in

accordance with paragraph (b)(2) of this section, from the lesser of—

(i) The monthly rent and utility charges (one-twelfth of the estimated reasonable annual charges for heat, hot water, lighting, water and sewer) for a comparable replacement dwelling; or

(ii) The monthly rent and utility charges for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person

(2) *Base monthly housing cost.* The base monthly housing cost for the displacement dwelling is the lesser of—

(i) The average monthly cost for rent and utilities for a reasonable period prior to displacement, as determined by the Agency. For an owner-occupant or person who pays only a nominal rent, the average monthly cost for rent shall be the fair market rent; or

(ii) Thirty (30) percent of gross household income (the gross monthly income of the head of the household, his or her spouse, and any other members of the household who are over 18 years of age).

(3) *Manner of disbursement.* The payment under this section shall be disbursed in a lump sum amount unless the Agency determines on a case-by-case basis, for good cause, that the payment should be made in installments.

(c) *Downpayment assistance payment.* (1) *Amount of payment.* An eligible displaced person who purchases the replacement dwelling is entitled to a payment for downpayment assistance up to, but not to exceed, $4,000. Such payment shall be the full amount of the first, $2,000 of the required downpayment and incidental expenses computed under § 25.401(e) plus one-half of any amount required over $2,000. However, the total payment by the Agency shall not exceed $4,000.

(2) *Required downpayment.* For purposes of this section, the term "required downpayment" means the downpayment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the "required downpayment" shall be the amount which the Agency determines is necessary for the downpayment.

(3) *Application of payment.* The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

§ 25.403 Additional rules governing replacement housing payments.

(a) *Determining cost of comparable replacement dwelling.* The upper limit of a replacement housing payment shall be based on the actual cost of a representative comparable replacement dwelling (defined at § 25.10(c)) which has actually been offered to the person to be displaced.

(1) If available, at least three representative comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, if such an adjustment is considered appropriate by the Agency, e.g., local market conditions. An obviously overpriced dwelling may be ignored.

(2) If the site of the comparable replacement dwelling lacks a major attribute of the displacement dwelling site, e.g., it is significantly smaller or does not contain a swimming pool, the value of such attribute shall be subtracted from the purchase price of the displacement dwelling for purposes of computing the payment.

(3) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or in nearby neighborhoods where housing costs are generally the same or higher.

(b) *Inspection of replacement dwelling.* Before making a replacement housing payment or releasing a payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at § 25.10(d).

(c) *Owner of displacement dwelling.* A displaced person is considered to have met the requirement to own a displacement dwelling if the person holds any of the following interests in real property acquired for the project:

(1) Fee title, a life estate, a 99-year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition; or

(2) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(3) A contract to purchase any of the interests or estates described in subparagraphs (1) or (2) of this paragraph; or

(4) Any interest which in the judgment of the Agency warrants consideration as ownership.

(d) *Purchase of replacement dwelling.* A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person—

(1) Purchases a dwelling; or

(2) Purchases and rehabilitates a substandard dwelling; or

(3) Relocates a dwelling which he or she owns or purchases; or

(4) Constructs a dwelling on a site he or she owns or purchases; or

(5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases.

(e) *Delay in occupancy after purchase of replacement dwelling.* If the displaced person initially occupies the replacement dwelling after the date by which occupancy is required, but the delay beyond such date is caused by reasons beyond the person's control, the occupancy requirement shall be considered to be satisfied.

(f) *Presidentially declared disaster.* No person shall be denied eligibility for a replacement housing payment solely because he or she is unable, because of a major disaster as determined by the President, to meet the occupancy requirements set forth in the regulations in this part.

(g) *Conversion of payment.* A 180-day owner-occupant who initially rents a replacement dwelling and receives a rental assistance payment under § 25.402(b) is eligible to receive a payment under § 25.401 if he or she meets the eligibility criteria described at § 25.401(a), including purchase and occupancy within the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under § 25.401.

(h) *Payment after death.* A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that—

(1) The amount attributable to the displaced person's actual occupancy of the replacement housing shall be paid;

(2) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family members continue to occupy the replacement dwelling selected in accordance with these regulations; and

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

Subpart F—Mobile Homes

§ 25.501 Applicability.

This Subpart describes the requirements governing the provision of relocation payments for a person displaced from a mobile home or mobile home site who meets the basic eligibility requirements of these regulations. Except as modified by this Subpart, such a displaced person is entitled to a moving expense payment in accordance with Subpart D and a replacement housing payment in accordance with Subpart E to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

§ 25.502 Moving and related expenses—mobile homes.

(a) *General.* A tenant or owner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving his or her personal property on an actual cost basis in accordance with § 25.302 or, as an alternative, on the basis of a fixed payment under § 25.302 as described in the applicable Agency schedule.

(1) If a displaced mobile homeowner files a claim for actual moving expenses for moving the mobile home to a replacement site, the reasonable cost of disassembly, moving and reassembly of any attached appurtenances (such as porches, decks, skirting and awnings) which were not acquired, anchoring of the unit and utility "hook-up" charges are reimbursable.

(2) If the mobile home is not acquired but the owner obtains a replacement housing payment under one of the circumstances described at § 25.503(c), the owner is not eligible for payment of moving expenses under Subpart D for moving the mobile home.

(b) *Mobile home part entrance fee.* A displaced mobile home occupant, who elects to obtain a moving expense payment on an actual cost basis in accordance with § 25.301, is entitled to payment for the reasonable entrance fee that the person must pay in order to relocate to a mobile home park. However, no part of an entrance fee (such as a security deposit) which is returnable to the person shall be paid.

§ 25.503 Replacement housing payment for 180-day mobile home owner-occupants.

A displaced owner-occupant of a moble home is entitled to a replacement housing payment not to exceed $15,000 under § 25.401 if—

(a) The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation negotiations.

(b) The person meets the other basic eligibility requirements at §25.401(a); and

(c) The Agency acquires the mobile home as real property, *or* the mobile home is not acquired by the Agency but the person is displaced because the mobile home—

(1) Is not decent, safe, and sanitary; or

(2) Cannot be moved without substantial damage or unreasonable cost; or

(3) Cannot be moved because there is no available comparable replacement site; or

(4) Cannot be moved because it does not meet mobile home park entrance requirements.

(When the mobile home is not actually acquired, the acquisition price of the displacement dwelling used for the purpose of computing the price differential amount (described at § 25.401(c)) shall include the salvage value or trade-in value of the mobile home, whichever is higher.)

§ 25.504 Replacement housing payments for 90-day mobile home occupants.

A displaced occupant of a mobile home is eligible for a replacement housing payment, not to exceed $4,000, under §25.402 if—

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § 25.402(A); and

(c) The Agency acquired the mobile home as real property, *or* the mobile home is not acquired by the Agency but the person is displaced from the mobile home because of one of the circumstances described at § 25.503(c).

§25.505 Additional rules governing relocation payments to mobile home occupants.

(a) *Persons with both an ownership and tenant interest.* A displaced mobile home occupant may have owned the displacement mobile home and rented the site or have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such case, the total replacement housing payment shall consist of a payment for dwelling and a payment for a site, each computed under the applicable section in Subpart E. However, the total replacement housing payment to a person shall not exceed the maximum payment (either $15,000 or $4,000) permitted under the section that governs the computation for the dwelling.

(b) *Comparable replacement dwelling.* When computing the amount of a replacement housing payment for a person displaced from a mobile home, the cost of a comparable replacement dwelling is the reasonable cost of a comparable replacement mobile home. This applies whether the displaced person's replacement dwelling is another mobile home or a conventional home. However, if a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a comparable conventional dwelling.

(c) *"Initiation of negotiations."* If the mobile home is not actually acquired, but the occupant is considered displaced under these regulations, the "initiation of negotiations" shall be the date of the initiation of negotiations to acquire the land or, if the land is not acquired, the date prescribed by the Agency. The date prescribed by the Agency shall not be later than its notice to vacate the property.

(d) *Mobile home pad.* A "comparable replacement site" shall include a mobile home pad if the displacement site has a mobile home pad or applicable housing codes require a pad.

(e) *Person moves mobile home.* If the owner is reimbursed for the cost of moving the mobile home under these regulations, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

(f) *Partial acquisition of mobile home park.* The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home occupant located in the remaining part of the property is required to move, such an occupant shall be considered displaced by the project and entitled to the relocation payments and other assistance in these regulations.

Subpart G—Last Resort Housing

§ 25.601 Applicability.

(a) *Basic determination to provide last resort housing.* Under these regulations a person cannot be required to move from his or her dwelling unless

at least one comparable replacement dwelling is made available to the person. In some cases, a replacement housing payment under Subpart E is not sufficient to provide such housing and additional measures may be needed. Therefore, an Agency is authorized to take additional measures whenever it determines that, unless it does so, there is a reasonable likelihood that the project will not be able to proceed to completion in a timely manner because no comparable replacement dwelling will be available on a timely basis to a person to be displaced. The agency's obligation to ensure that a comparable replacement dwelling is available shall be met when such a dwelling, or assistance necessary to provide such a dwelling, is offered under the provisions of this Subpart.

(b) *Basic rights of persons to be displaced.* The provisions of this Subpart do not deprive any displaced person of any rights the person may have under the Uniform Act or any implementing regulations. The Agency shall not require any displaced person, without the person's written consent, to accept a dwelling provided by the Agency under the procedures in this Subpart in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible. A 180-day homeowner-occupant who is eligible for a payment under § 25.401 is entitled to a reasonable opportunity to purchase a comparable replacement dwelling.

§ 25.602 Methods of providing replacement housing.

Agencies shall have broad latitude in implementing this Subpart, but implementation shall be on a reasonable cost basis. The methods of providing last resort housing include, but are not limited to:

(a) Rehabilitation of and/or additions to, an existing replacement dwelling;

(b) The construction of a new replacement dwelling;

(c) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest free.

(d) A replacement housing payment in excess of the limits set forth in § 25.401 or § 25.402. (A rental assistance subsidy under this Subpart may be provided in installments);

(e) The relocation and, if necessary, rehabilitiation of a replacement dwelling;

(f) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with, a displaced person; and/or

(g) The removal of barriers to the handicapped.

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April 14, 1983

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Mining and Reclamation Operations Under a Federal Program; Idaho

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 912

Surface Mining and Reclamation Operations Under a Federal Program for Idaho

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior promulgates a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Idaho. This includes surface effects of underground coal mining. This program is necessary in order to regulate surface coal mining activities in the absence of a State program.

DATE: Effective date, May 16, 1983.

ADDRESSES: Documents in the Administrative Record are available for public review and copying during regular business hours at the Office of Surface Mining, Wyoming Field Office, 935 Pendell Blvd., Room 07, Mills, Wyoming 82644, or the Administrative Record Room, Office of Surface Mining, 1100 L Street, NW., Washington, D.C. Copies of the proposed and final rule may also be obtained by mail from the Office of Surface Mining, Wyoming Field Office, P.O. Box 1420, Mills, Wyoming 82644, or from the Office of Surface Mining, Administrative Record, 1951 Constitution Avenue, NW., Washington, DC 20240. Copies of the proposed and final rule may also be obtained at either location.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240, telephone: (202) 343-5866, or Gene Filer, Office of Surface Mining, Wyoming Field Office, P.O. Box 1420, Mills, WY 82644, telephone (307) 328-5778.

SUPPLEMENTARY INFORMATION:

Availability of Copies

Copies of the proposed program are available for inspection and may be obtained at the OSM offices listed above under "**ADDRESSES.**"

Background

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce, or maintain an approved State program. The time for submitting State programs was extended by seven months to March 3, 1980, as the result of litigation, *In re: Permanent Surface Mining Regulation Litigation*, 13 Envir. Rep. Cas. 1447 (July 25, 1979). The date for the required implementation of a Federal program in any State which did not submit a program to obtain primary regulatory responsibility has passed.

Once a decision has been made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that, in implementing a Federal program, the Secretary must take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations for Federal programs, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (Section 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. The Secretary believes that the requirements of Section 505(b) can best be met by identifying State laws and regulations which impose more stringent environmental controls and listing them in this Federal program. If the State's laws or regulations establish more stringent standards than those of the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment which neither the Act nor the Secretary's regulations protect, OSM would then specifically preserve those State Standards in the Federal program. However, by identifying more stringent State environmental controls in a Federal program, OSM would not be assuming any responsibility for enforcing such State laws. That would be left to the State.

Also, in promulgating a program for a State, Section 504(g) specifies that any State statutes or regulations which regulate surface mining and reclamation operations are to be identified by the Secretary and will be superseded and preempted to the extent that they interfere with the achievement of the purposes and requirements of the Act and Federal program. This provision is reinforced by Section 505(a) of the Act which states that only inconsistent State laws shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which do not provide as much protection as do the Federal law and regulations are considered to interfere with achievement of the purposes of the Act. Accordingly, they must be identified and preempted by OSM.

Federal programs are based on the Secretary's permanent program regulations. 30 CFR Subchapters A, F, G, J, K, L, and M. The permanent program regulations implement the procedures and performance standards of the Act. They form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. The permanent program regulations contain references to "the regulatory authority" and to "the State regulatory authority," both of which mean the Secretary when a Federal program is involved. Section 701(22) of the Act. The Secretary has delegated all authority for surface coal mining activities to the Director of the Office of Surface Mining (the Director), who is the official responsible for implementing the Washington Federal program.

The parts of the permanent program regulations that must be included in a Federal program are listed in the regulations, 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761, 762 and 765), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In addition, the provisions in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who, in the instance of a Federal program, are directly enforcing the Act.

The rules for the permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56060). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15323–15463 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507–53509 (September 14, 1979); 44 FR 66195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440–77445 (December 31, 1979); 45 FR 2626–2629 (January 11, 1980); 45 FR 25998–26001 (April 16, 1980); 45 FR 33926–33927 (May 20, 1980); 45 FR 39446–39447 (June 10, 1980); 45 FR 52306–52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780–58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 59934 (December 7, 1981); 47 FR 32942 (July 30, 1982); 47 FR 33481 (August 2, 1982); 47 FR 35620 (August 16, 1982); 47 FR 38486 (August 31, 1982); 47 FR 44942 (October 12, 1982); 47 FR 47212 (October 22, 1982); 47 FR 51316 (November 13, 1982); 48 FR 1166 (January 10, 1983); 48 FR 2266 (January 18, 1983); and 48 FR 9199 (March 3, 1983).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the **Federal Register** on November 27, 1979 (44 FR 67942); December 31, 1979 (44 FR 77447–77454); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547–51550). In two opinions the court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court were appealed to the Court of Appeals for the District of Columbia Circuit. *In Re: Permanent Surface Mining Regulation Litigation*, Nos. 80–1810, 80–1811, 80–1812, 80–1813 and 80–1823. The appeals were remanded to the District Court for the District of Columbia on February 1, 1983, in order for the issues to be reconsidered in light of revision of the permanent program rules discussed below.

Idaho Federal Program

On July 12, 1982, the Office of Surface Mining proposed a Federal program to regulate coal exploration and surface coal mining in Idaho. 47 FR 30214. The proposed public hearing in the State was cancelled. OSM is promulgating a final Federal regulatory program because there are coal deposits located on non-Federal and non-Indian lands which can be economically extracted, and the State has failed to submit a regulatory program for approval.

As mentioned above, when promulgating a Federal program for a State, OSM is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM reviewed Idaho's laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. OSM believes that there are Idaho statutes which, in certain circumstances, impose stricter environmental controls than are provided under the Act or the Federal regulations. Those statutes are listed in § 912.700(e).

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" and to "the State regulatory authority," both of which mean the Secretary when a Federal program for a State is involved. Section 701(22) of the Act. The Secretary has delegated all authority for regulating surface coal mining, activities to the Director of the Office of Surface Mining, and the promulgation of this Federal program for Idaho does not change that delegation.

Explanation of Cross-Referencing

To take advantage of the results which revision of the permanent program regulations will achieve, OSM has developed and promulgated this Federal program in the following manner. Rather than repeating the full text of the permanent regulations, there is instead only a cross-reference to the appropriate permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining are provided by making the criteria in 30 CFR Part 762 applicable to this program (see § 912.762).

One effect of the cross-referencing to the permanent program regulations is that as the permanent program regulations are revised, this Federal program will be similarly revised. Over time, all of the permanent program regulations will be reviewed and many will be revised. No separate rulemaking will be undertaken or necessary for revision of this program, however, unless OSM determines that special conditions are present which necessitate different rules for Idaho. In any case, the promulgation of this cross-referencing Federal program would not result in any modification of the substance of OSM's permanent program rules.

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), it was stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR at 32229). However, except for changes to incorporate more stringent State environmental protection standards and to list other State laws requiring permits for which coordination is required, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

A notice concerning both the proposed and final permanent program rules appeared on July 13, 1982, in connection with the availability of a draft supplemental environmental impact statement on the permanent program rules. 47 FR 30266–67. It advised the public that any change in a permanent program rule would also result in a corresponding change in this program, absent special conditions. The statement invited comments on necessary modifications to accommodate unique or unusual aspects of surface mining in any Federal program State so that the Federal program for such a State could be tailored as necessary.

Several provisions of the permanent program regulations are already applicable to all Federal programs because they were fully promulgated for application to all regulatory programs and, therefore, need not be cross-referenced here. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface

Coal Mining. 30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining has been included in this program by a cross-reference under § 912.764, to provide a petition process on non-Federal lands in Idaho. Also, Part 760 has not been included because its provisions do not provide any substantive requirements. Instead, they impose requirements on the Secretary and his delegates which need not be incorporated in each Federal program. Part 765 was also not included because it is directly applicable to a Federal program State without being incorporated or cross-referenced.

With regard to bonding regulations (Subchapter J), only Part 800 is cross-referenced because OSM has proposed to revise Subchapter J to include just one part, Part 800. 46 FR 45082 (September 9, 1981). Should the Idaho Federal program become effective before the final rule notice revising the bonding regulations appears, and the bonding rules not be revised by the time a permit under this Federal program is to be issued, as a condition of issuance of that permit the applicant will be required to abide by the then-effective bonding rules until such rules are superseded.

Content and Organization of the Program

The content and organization of the Idaho Federal program generally follow the permanent program regulations. However, as discussed above, instead of the full text appearing, each section of the Idaho Federal program includes only a reference to the pertinent permanent program regulations.

Sections 912.700 (e) and (f), respectively, list State statutes that are more stringent than and those that are inconsistent with the Act. Where specific provisions are needed for Idaho that are different from the permanent program regulations, a separate statement has been added to the appropriate section of this Federal program.

To fulfill the Secretary's obligation under Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of each State, Idaho laws were reviewed. OSM believes there are Idaho statutes which, in certain circumstances, impose stricter environmental controls than are provided for under the Act or the Federal regulations. The Idaho laws which OSM has identified as setting more stringent land use and environmental controls for surface mining are listed in § 912.700(e), and are summarized as follows:

(a) Idaho Code Section 47-1503(20) defines "operator" to include those who engage in surface mining or exploration operations. This definition of operator is broader than that contained in OSM's regulation, 30 CFR 701.5.

(b) Idaho Code Section 47-1509(c) requires every operator who conducts exploration or surface mining operations which disturb less than two acres to return the land to the approximate original contour whenever possible. Section 528(2) of the Act exempts from OSM regulation those surface mining operations affecting two acres or less.

(c) Idaho Code Section 47-1513(c) provides for the assessment against an operator, in certain circumstances, of a civil penalty in the amount of the anticipated cost of reclamation; 30 CFR Part 843 contains no such provision.

(d) Idaho Code Section 47-1513 (f) and (g) provide for the assessment of civil penalties in the amount of $100 to $1,000 per day, in addition to bond forfeiture, in certain circumstances; 30 CFR 843 and 845 contain no such provision.

(e) Idaho Code Sections 47-1301—47-1324 and Rules 1 through 20 promulgated thereunder regulate the practice of dredge mining, which is not specifically addressed by the Federal Act.

(f) Idaho Code Section 18-4301 provides that interference with ditches, canals, or reservoirs used for several purposes, including mining, is punishable as a misdemeanor. Neither the Act nor permanent regulations contain such a provision.

(g) Idaho Code Section 18-7019 provides for criminal sanctions for willful or malicious interference with structures used to conduct water for mining and other purposes. Neither the Act nor permanent regulations contain such a provision.

(h) Idaho Code Section 42-1713 requires a fee to be paid by each owner of a dam, reservoir, or mine tailing impoundment structure. 30 CFR 816.49, 816.91-93, 817.49 and 817.91-.93 do not require payment of such a fee.

(i) Idaho Code Section 42-1718 (Supp.) provides that the State costs and expenses of work done to render a dam, impounding structure, or its appurtenance facility safe, shall be recoverable by the State from the owner. 30 CFR 816.49, 816 .91-.93, 817.49, and 817 .91-93 contain no such provision.

In accordance with 30 CFR 736.23, OSM believes that the Idaho statute and rules listed in Section 912.700(f) of this Federal program interfere with the achievement of the goals and purposes of the Act, and the permanent program rules thereunder. Thus, OSM is preempting the following Idaho statute and rules insofar as they apply to coal mining on the effective date of this Federal program except as they pertain to operations affecting two acres or less, or which otherwise are not regulated by the Surface Mining Control and Reclamation Act:

Idaho Surface Mining Act, Sections 47-1501—47-1528, as amended, and all regulations thereunder. However, Sections 47-1503(20), 47-1509(c), 97-1513(c), and 47-1513 (f) and (g), and all regulations issued thereunder, as specified in Section 912.700(e) of this Federal program, are not preempted and superseded, as they have been found to be more stringent than the Act and permanent program rules. By superseding the State's Surface Mining Act, OSM becomes the permitting authority for surface coal mining and exploration under the program promulgated here.

The Idaho Surface Mining Act represents the main body of Idaho law relating to mined land reclamation and to the exploration or surface mining of minerals. Although Idaho requires, to a limited extent, the reclamation of surface mined lands, review of the above Idaho statute and rules indicates that they are not consistent with the Act or the premanent program rules, and that they interfere with the achievement of the goals and purposes expressed in the Act insofar as they pertain to coal. Thus, the Idaho statute and rules described above will no longer be applicable to the regulation of coal exploration or to surface coal mining and reclamation in Idaho, except as they pertain to operations affecting two acres or less or which otherwise are not regulated by the Surface Mining Control and Reclamation Act. Their applicability to the mining of minerals other than coal is not affected by this action.

OSM had proposed to preempt a number of Idaho laws. See proposed § 912.700(f) (2)-(3), 47 FR 30218-30219. However, it is OSM's policy not to supersede State laws unless absolutely necessary. Further review of those State laws has led OSM to conclude that they would not necessarily interfere with achievement of the purposes and goals of the program and need not be superseded; therefore, they are not being preempted in this final rule notice.

To coordinate the Federal program permitting process under the Act with the permitting requirements imposed by other Federal statutes and by Idaho, § 912.700(b) of the Idaho Federal program identifies the various permits, statutes, and rules which may, expressly or by implication, impact on surface coal mining and reclamation and coal exploration. The pertinent permits, statutes, and rules follow:

(a) Idaho Code Sections 47-1317, 47-1318, 47-1319, and 47-1317 (Supp.), provide for the permitting of dredge mining operations.

(b) Idaho Code Section 39-101 *et seq.* (Supp.), Environmental Protection and Health Act of 1972, and regulations promulgated thereunder, address issuance and regulation of pollution source permits.

(c) Idaho Code Section 47-704 addresses the leases of mineral rights on State lands.

Coordination of these permitting requirements under State law with the issuance of a surface mining permit by OSM is achieved under § 912.700(b) by stipulating that no person may conduct exploration or mining, except with the applicable State permits.

OSM has removed Part 850 from the permanent program rules. To ensure that blaster training and certification is preserved in States with Federal programs, OSM will promulgate standards for blaster training and certification at a later date.

Copies of the Idaho Surface Mining Act, as amended, and the other Idaho statutes referred to herein are in the administrative record, and are available for review at the place listed above under *"ADDRESSES."*

Disposition of Comments

Comments on the proposed Idaho Federal program were received solely from the Office of the Attorney General, State of Idaho.

1. The Attorney General commented that §§ 912.770 and 912.776, concerning coal exploration, may be construed to inhibit or prevent exploration for minerals other than coal.

The Surface Mining Control and Reclamation Act of 1977 and regulations promulgated thereunder regulate only "surface coal mining operations," as defined in Section 701(28) of the Act. Thus, neither §§ 912.770 and 912.776 nor the other provisions of the Idaho Federal program apply to mining of, or exploration for, minerals other than coal.

2. The Attorney General additionally expressed concern that proposed §§ 912.761, 912.762, and 912.764, which implement Section 522 of the Act, could preclude coal leasing on State trust lands.

Section 522 of the Act establishes a procedure under which citizens may petition to designate areas unsuitable for all or certain types of coal mining, thereby enabling the State and Federal governments to respond to conflicts which could arise between coal mining and other uses of the land. Under certain circumstances, surface coal mining operations on specific State trust lands could be prohibited if such lands are covered by the Congressionally mandated prohibitions described in § 912.761, or if these lands are designated as unsuitable for surface mining pursuant to § 912.764. Idaho agencies will have the opportunity to participate in the consideration of any petition submitted under § 912.764.

3. The Attorney General further commented that the preemption of Title 47, Chapter 7 of the Idaho Code would preclude the State from exercising remedies of injunction, cancellation of State leases, etc., in the event of exploration or coal mining on State trust lands without a bond or lease.

As noted in Comment 4 and OSM's response to it, Idaho Code Sections 47-701, 47-702, 47-703, and 47-718 (1981 Session Laws), which cover regulation of coal leasing on State trust lands, will not be preempted or superseded by this Federal program. The State will therefore not be prevented from exercising its available enforcement remedies under Chapter 7 of Title 47 concerning coal leasing on State trust lands. All requirements of Idaho law applicable to coal leasing on State trust lands will be preserved by this Federal program.

4. The Attorney General commented that proposed § 912.700(f)(5), which would have preempted Idaho Code Sections 47-701, 47-702, 47-703, and 47-718 (1981 Session Laws), would have prevented the State from using these enforcement mechanisms in the regulation of coal leasing on State trust lands. The Attorney General suggested that the State of Idaho should retain concurrent jurisdiction over coal leasing on State trust lands.

OSM agrees and has deleted § 912.700(f)(5) from the final rule.

Section 504(g) of the Act specifies that any State statutes or regulations which regulate surface coal mining and reclamation operations subject to the Act shall be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and the Federal program. Proposed § 912.700(f)(5) stated that, except for application to surface coal mining operations affecting two acres or less, Idaho Code Section 47-701, 47-702, 47-703, and 47-718 (1981 Session Laws) would be preempted and superseded, except Sections 47-703A, 47-718(1)(b), and 47-718(3). The preamble indicated that this preemption was necessary because Chapter 345 was less stringent than the Act and the permanent program rules thereunder, and would therefore interfere with the achievement of the purposes and goals of the Federal Act and program. OSM now believes the enforcement measures in 47-718 would not so interfere. The underlying State laws, of which enforcement is now preserved, Sections 47-701, 47-702, and 47-703, have not been superseded because they pertain to the legal rights of persons exploring for coal on State lands and not to the manner in which exploration is conducted.

OSM has also revised its earlier determination in Section 912.700(e)(11) that Idaho Code Section 47-718(3) was more stringent than Section 518 of the Act in providing for the assessment of a civil penalty. As pointed out in the comments, Idaho Code Section 47-701 *et seq.*, regulates the administration of coal leasing on State trust lands. It is not necessary to make a determination as to the stringency of Idaho Code Section 47-718(3) because State jurisdiction over coal leasing on State trust lands is not affected by this Federal program. Therefore, proposed Section 912.700(e)(11) has been deleted.

Further, OSM believes that preemption of Idaho Code Sections 47-701, 47-702, 47-703, and 47-718 (1981 Session Laws) would unnecessarily interfere with the State's administration of coal leasing on such lands. Therefore, these sections have not been preempted or superseded, nor are State responsibilities under them affected by, the promulgation of this Federal program. However, any coal exploration or surface coal mining operations would be subject to regulation under the Federal program.

OMB Review

The recordkeeping and reporting requirements of the proposed rule are the same as those of the permanent program regulations, which have been approved by the Office of Management and Budget under 44 U.S.C. Section 3507. Although this rule contains information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act and the Federal Reports Act, clearance of information collection forms is required only if ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the **Federal Register**, in accordance with the requirements of 44 U.S.C. Chapter 35.

Other Information

The information collection requirement(s) contained in §§ 912.764, 912.770 912.771, 912.795, and 912.800 do not require approval by the Office of Management and Budget under 44 U.S.C. 3507, because there are fewer than ten respondents annually.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)*

The reasons underlying this determination are as follows:

This Federal program would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets; nor would it increase costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions. We further certify that there will be no significant demographic effects, direct costs, indirect costs, nonquantifiable costs, competitive effects, enforcement costs, or aggregate effects on small entities.

The Office of Surface Mining Reclamation and Enforcement has determined that this rule is categorically excluded from compliance with the National Environmental Policy Act in accordance with 40 CFR 1507.3.

Subjects Affected by Rulemaking

In accordance with the **Federal Register** rule at 1 CFR 18.20, which requires an identification of topics affected by a rule, OSM has identified the following subjects:

List of Subjects in 30 CFR Part 912

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting requirements.

Drafting Information

These regulations were drafted by William Larkin, Office of the Solicitor, and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Dated: March 21, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Part 912 is added to 30 CFR Chapter VII to read as follows:

PART 912—IDAHO

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912.700 Idaho Federal Program.
912.701 General.
912.707 Exemption for coal extraction incident to Government-financed highway or other construction.
912.761 Areas designated unsuitable for surface coal mining by act of Congress.
912.762 Criteria for designating areas as unsuitable for surface coal mining operations.
912.764 Process for designating areas unsuitable for surface coal mining operations.
912.770 General requirements for permits and exploration procedures.
912.771 General requirements for permits and permit applications.
912.776 General requirements for coal exploration.
912.778 Surface mining permit applications—minimum requirements for legal, financial, compliance, and related information.
912.779 Surface mining permit applications—minimum requirements for information on environmental resources.
912.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.
912.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.
912.783 Underground mining permit applications—minimum requirements for information on environmental resources.
912.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.
912.785 Requirements for permits for special categories of mining.
912.786 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.
912.787 Administrative and judicial review of decisions on permit applications.
912.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.
912.795 Small operator assistance.
912.800 General requirements for bonding of surface coal mining and reclamation operations.
912.815 Performance Standards—coal exploration.
912.816 Performance Standards—surface mining activities.
912.817 Performance Standards—underground mining activities.
912.818 Special performance standards—concurrent surface and underground mining.
912.819 Special performance standards—auger mining.
912.822 Special performance standards—operations in alluvial valley floors.
912.823 Special performance standards—operations on prime farmland.
912.824 Special performance standards—mountaintop removal.
912.826 Special performance standards—operations on steep slopes.
Sec.
912.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.
912.828 Special performance standards In Situ processing.
912.842 Federal inspections.
912.843 Federal enforcement.
912.845 Civil penalties.

Authority: Pub. L. 95–87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, 91 Stat. 445.

§ 912.700 Idaho Federal Program.

(a) This part contains all rules that are applicable to surface coal mining operations in Idaho which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the permanent program rule cited under the relevant section of the Idaho Federal program.

(c) The rules in this part apply to all surface coal mining operations in Idaho conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Idaho.

(d) The information collection requirements contained §§ 921.764, 921.770, 921.771, 921.795, and 921.800 part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Idaho laws provide, where applicable, for more stringent environmental control and regulation of surface coal mining operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to Section 505(b) of the Act, they shall not be construed to be inconsistent with the Act.

(1) Idaho Code Section 47–1503(20) pertaining to the definition of "operator."

(2) Idaho Code Section 47–1509(c) regarding reclamation of disturbed land of less than 2 acres.

(3) Idaho Code Section 47–1513(c) providing for assessment of anticipated costs of reclamation against an operator.

(4) Idaho Code Sections 47–1513 (f) and (g) providing for assessment of civil penalties in addition to bond forfeiture.

(5) Idaho Code Sections 47–1301 *et seq.* and Rules 1 through 20 promulgated thereunder pertaining to regulation of dredge mining.

(6) Idaho Code Sections 18–4301 and 18–7019 providing for punishment for interference with water sources used in mining operations.

(7) Idaho Code Section 42-1713 requiring a fee to be paid by each owner of a dam, reservoir or mine tailing impoundment structure.

(8) Idaho Code Section 42-1718 (Supp.) providing for assessment against an operator for costs incurred in correction deficiencies in dams and impoundment structures.

(f) The following Idaho statute and regulations interfere with the achievement of the purposes and goals of the Act. Therefore, in accordance with Section 504(g) of the Act, they are preempted and superseded with respect to surface coal mining and reclamation, except as they apply to surface coal mining operations affecting two acres or less, or which otherwise are not regulated by the Surface Mining Control and Reclamation Act:

The Idaho Surface Mining Act, Idaho Code Sections 47-1501—47-1524, as amended, and all regulations issued thereunder (with the exception of Sections 47-1503(20), 47-1509(c), 47-1513(c), and 47-1513 (f) and (g), and all regulations issued thereunder).

§ 912.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining and reclamation operations in Idaho.

§ 912.707 Exemption for coal extraction incident to Government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 912.761 Areas designated unsuitable for surface coal mining by act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining and reclamation operations.

§ 912.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface mining and reclamation operations.

§ 912.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mining and reclamation operations.

§ 912.770 General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit Systems Under State Programs, shall apply to surface coal mining, reclamation, and exploration operations.

(b) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued and/or certificates required by the State of Idaho, pursuant to Idaho Code Sections 47-704, 47-1317, 47-1318, 47-1319, 47-1317 (Supp.), and 39-101 *et seq.* (Supp.).

§ 912.771 General requirements for permits and permit applications.

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with § 736.25 of this chapter.

§ 912.776 General requirements for coal exploration.

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

§ 912.778 Surface mining permit applications—minimum requirements for legal, financial, compliance and related information.

Part 778 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 912.779 Surface mining permit applications—minimum requirements for information on environmental resources.

Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 912.780 Surface mining permit applications—minimum requirements for reclamation and operation plan.

Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 912.782 Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 782 of this chapter, Underground Mining Permit Applications—Minimum requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 912.783 Underground mining permit applications—minimum requirements for information on environmental resources.

Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who submits an application to conduct underground coal mining operations.

§ 912.784 Underground mining permit applications—minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct underground coal mining.

§ 912.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 912.786 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

Part 786 of this chapter, Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

§ 912.787 Administrative and judicial review of decisions on permit applications.

Decisions on permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and Sections 520, 525, and 526 of the Act.

§ 912.788 Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.

Part 788 of this chapter, Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

§ 912.795 Small operator assistance.

Part 795 of this chapter, Small Operator Assistance, shall apply to any person making application for assistance under the small operator assistance program.

§ 912.800 General requirements for bonding of surface coal mining and reclamation operations.

Part 800 of this chapter, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations.

§ 912.815 Performance standards—coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person conducting coal exploration operations.

§ 912.816 Performance standards—surface mining activities.

Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts surface coal mining and reclamation operations.

§ 912.817 Performance standards—underground mining activities.

Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground coal mining operations.

§ 912.818 Special performance standards—concurrent surface and underground mining.

Part 818 of this chapter, Special Permanent Program Performance Standards—Concurrent Surface and Underground Mining, shall apply to any person who conducts combined surface and underground coal mining operations.

§ 912.819 Special performance standards—auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 912.822 Special performance standards—operations in alluvial valley floors.

Part 822 of this chapter, Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors, shall apply to any person who conducts surface coal mining and reclamation operations on alluvial valley floors.

§ 912.823 Special performance standards—operations on prime farmland.

Part 823 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

§ 912.824 Special performance standards—mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

§ 912.826 Special performance standards—operations on steep slopes.

Part 826 of this chapter, Special Permanent Program Performance Standards—Operations on Steep Slopes, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

§ 912.827 Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

Part 827 of this chapter, Special Permanent Program Performance Standards—Coal Processing plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which includes the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

§ 912.828 Special performance standards—In Situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts in situ processing activities.

§ 912.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all exploration and surface coal mining and reclamation operations.

(b) The Secretary will furnish a copy of each inspection report regarding inspections conducted pursuant to this section to the Office of the Idaho Attorney General upon request.

§ 912.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply when enforcement action is required for violations on surface coal mining and reclamation operations.

(b) The Office will furnish a copy of each enforcement action and order to show cause issued pursuant to this section to the Office of the Idaho Attorney General upon request.

§ 912.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing April 8, 1983